



## SEATTLE UNIVERSITY POLICY

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### Responding to Allegations of Research Misconduct

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#### **Purpose**

To describe the University's expectations for the integrity of the Research conducted at the University as well as the policies and procedures to be followed in investigating Allegations of Misconduct in Research (Fabrication, Falsification, or Plagiarism in proposing, performing or reviewing Research, or in reporting Research results). The following procedures conform to the Public Health Services (Department of Health and Human Services) Final Rule 42 Code of Federal Regulations (CFR) Part 93.

While 42 CFR Part 93 applies to all individuals who may be involved with a project supported by, or who have submitted a grant application to the Public Health Services (PHS), University Policy applies to all individuals engaged in University Research whatever the funding source.

#### **Rationale**

The detailed policies and procedures described herein provide assurances to all sponsors/funding agencies that the university is in compliance with requirements regarding research misconduct.

#### **Definitions**

*Allegation* - a disclosure of possible Research Misconduct through any - of communication. The disclosure may be written or oral statement or other communication to the RIO. (42 CFR 93.201)

*Bad Faith* - a material and demonstrable failure to meet the standards of Good Faith set forth herein as a Complainant, a witness, an Inquiry Panel member, an Investigation Panel member, or

the RIO. The context in which actions have occurred is a relevant and important factor to be taken into account in determining whether an individual has acted in Bad Faith.

*Complainant* - a Person who in Good Faith makes an Allegation of Research Misconduct. A Complainant need not be a member of the University community. (42 CFR 93.203)

*Conflict of Interest* - any personal, professional, or financial relationship that influences or reasonably would be perceived to influence the impartial performance of a duty assigned under this Policy by any of the following: a member of an Inquiry Panel, Investigation Panel, the RIO, the DO, the Provost or the President.

*Counsel* - lay or legal counsel secured by a Respondent to serve as an advisor to the Respondent in Misconduct Proceedings against the Respondent.

*DO* - the institution's Deciding Official who makes final determinations on Allegations of Research Misconduct and any institutional administrative actions.

*Evidence* - any document, tangible item, or testimony offered or obtained during a Research Misconduct Proceeding that tends to prove or disprove the existence of an alleged fact relevant to the Allegation at issue in that Misconduct Proceeding. This could include, depending on the Allegation, materials such as:

- Proposals, grant applications and comments thereon;
- Relevant Research data and related records;
- Laboratory notebooks and computer files;
- Telephone logs and memos of calls;
- Correspondence; or,
- Manuscripts, posters, publications, and tapes of oral presentations. (42 CFR 93.208)

*Fabrication* is making up data or results and recording or reporting them. (42 CFR 93.103(a))

*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. (42 CFR 93.103(b))

*Good Faith* as applied to a Complainant or witness, - 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 Research Misconduct Proceeding is not in Good Faith if made with knowing or reckless disregard for information that would negate the Allegation or

testimony. Good Faith as applied to an Inquiry Panel member, an Investigation Panel Member, the RIO or the DO, - cooperating with the Research Misconduct Proceeding by impartially carrying out the duties assigned under this Policy for the purpose of helping the University meet its responsibilities for research integrity. An Inquiry Panel member, an Investigation Panel member, or the RIO does not act in Good Faith if his or her acts or omissions in carrying out any such duty are dishonest or influenced by a Conflict of Interest. (42 CFR 93.210)

*Intentionally* - contemplating any result from a deliberate act as not unlikely to follow.

*Inquiry* - information gathering and initial fact finding to determine whether an Allegation warrants an Investigation.

*Inquiry Panel* - a group of at least three persons appointed to conduct an inquiry.

*Institutional Member* - all Seattle University faculty, staff or students.

*Investigation* - the formal, thorough examination and evaluation of all facts relevant to an Allegation to determine if Misconduct occurred and to assess its extent, gravity, and actual and potential consequences.

*Investigation Panel* - a group of at least three persons appointed to conduct an Investigation.

*Knowingly* - deliberately or consciously.

*Misconduct* - Fabrication, Falsification, Plagiarism, or any other practice that seriously deviates from practices commonly accepted in the discipline or in the academic and Research communities generally in proposing, performing, reviewing, or reporting Research. Misconduct does not include appropriate practices insofar as they accord with accepted standards in the relevant discipline. Misconduct does not include honest error or honest differences in the interpretation or judgment of Research data. In order for a finding of Misconduct to be made, the following three criteria must be met:

- a. There must be a significant departure from accepted practices of the relevant Research community; and
- b. The Misconduct must be committed Intentionally, Knowingly or Recklessly, and;
- c. The Allegation must be proven by a Preponderance of the Evidence. (42 CFR 93.103, 104); 45 CFR 689.1, 2(c), DoD Instruction 3210.7 E2.1.4, 10)

*Misconduct Proceeding* - any proceeding under this Policy related to the review of an Allegation, including Preliminary Assessments, Inquiries, Investigations and internal appeals.

*Misconduct Proceeding Record* - (1) Evidence secured for any Misconduct Proceeding; (2) a record of the RIO's review of other documents, tangible items, and testimony received or secured by the RIO in connection with that Misconduct Proceeding but determined by the RIO to be irrelevant to the Allegation at issue in the Misconduct Proceeding or to duplicate Evidence that has been retained; (3) the Preliminary Assessment report or referral and final (not draft) documents produced in the course of preparing that report or referral, including any other documentation of a decision that an Inquiry is not warranted; (4) the Inquiry report, determination regarding Investigation, and final (not draft) documents produced in the course of preparing those documents, including any other documentation of a decision that an Investigation is not warranted; (5) the Investigation report, determination regarding Misconduct, and all records (other than drafts of the Investigation report and determination) in support of those documents, including the transcripts of each interview conducted during an investigation; (6) the complete record of an internal appeal from a finding of Misconduct; and (7) the complete record of any challenge or review.

*Person* - any individual, corporation, partnership, institution, association, unit of government, or legal entity, however organized. (42 CFR 93.218)

*Plagiarism* is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit. (42 CFR 93.103(c))

*Preliminary Assessment* - initial information gathering to determine whether there is credible Evidence to support further review of an Allegation and whether the Respondent's alleged conduct could constitute Misconduct or Unacceptable Research Practices.

*Preponderance of the Evidence* - proof by Evidence that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not. (42 CFR 93.219)

*Policy* - this policy concerning Responding to Allegations of Misconduct in Research.

*Questionable Research Practices* - practices that do not constitute Misconduct or Unacceptable Research Practices but that require attention because they could erode confidence in the integrity of Research.

*Recklessly* - disregard for or indifference to the consequences or risks of one's acts.

*Research* encompasses the scholarly production of knowledge. This includes a systematic experiment, study, evaluation, demonstration or survey designed to develop, interpret or contribute to general knowledge (basic research) or specific knowledge (applied research).

Research may be conducted by: (1) a faculty member or other employee of the University as part of his or her non-instructional scholarly activities, or (2) a student in fulfillment of any independent study requirement at the University whose product is intended to be an original scholarly or creative work of potentially publishable quality (including, without being limited to, a master's project or thesis, or doctoral dissertation).

*RIO* - the University's Research Integrity Officer.

*Research Record* - the record of data or results from scholarly inquiry, including, without being limited to, Research protocols, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, books and other publications of any kind in any media and any material in any media necessary to support the content of any such document, presentation, or publication.

*Respondent* - the person against whom an Allegation of Research Misconduct is directed or who is the subject of a Research Misconduct Proceeding. A Respondent must be an employee of the University or a student at the University, or must have been an employee or a student at the time the Misconduct allegedly occurred. (42 CFR 93.225)

*Retaliation* - an adverse action taken against an individual who has, in Good Faith, participated in a Misconduct Proceeding (as Complainant, witness, Inquiry Panel member, Investigation Panel member, Counsel, Advisor, or RIO) or otherwise cooperated in the review of an Allegation under this Policy, where there is a clear and causal link between the participation or cooperation and the adverse action. The context in which an adverse action has occurred, including its materiality, is a relevant and important factor to be taken into account in determining whether it constitutes Retaliation.

*Sequestration* - the process of securing Evidence.

*Significant Departure* - a marked divergence from standard practices.

*Unacceptable Research Practices* - practices that do not constitute Misconduct but that violate applicable laws, regulations, or other governmental requirements, or University rules or policies, of which the Respondent had received notice or of which the Respondent reasonably should have been aware, for proposing, performing, reviewing, or reporting Research.

**Preamble<sup>1</sup>:**

Seattle University is committed to supporting a research community that operates at the highest level of integrity. This commitment extends not only to supporting research that is conducted with high, technical quality but with the collegial, professional and ethical processes with which research is performed. As part of this commitment it is necessary to clarify actions that are not acceptable (e.g. constitute Research Misconduct) and the procedures that will allow both the unveiling of Research Misconduct and adequate safeguards against the potential damage caused by inappropriate accusations. With the goal of promoting research integrity, this policy defines (a) “Research Misconduct,” (b) the steps for making an allegation of Research Misconduct, and (c) the steps for examining and acting on such allegations.

Professional misconduct is unacceptable in all forms. Research Misconduct is a specific type of professional misconduct that involves “fabrication, falsification, or plagiarism.” The need for formal processes for defining and acting on allegations of research misconduct include the following:

1. Public trust is generated on the faith that conclusions are accurate to the best of our knowledge and ability. Academic honesty is critical to the reliability of the knowledge yet to be discovered.
2. Defining a high expectation for research integrity establishes a community of scholarship that minimizes research misconduct.
3. Universities receiving federal funds must comply with requirements promulgated by the federal agencies to ensure high integrity in the research process, and establish formal procedures for addressing instances of research misconduct.
4. The right of the University to self-govern and self-regulate brings a responsibility to create clear procedures for defining and responding to research misconduct.

Members at all levels of the academic community (students, postdoctoral fellows, faculty, and staff) have a responsibility to encourage high research integrity and report instances of what

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<sup>1</sup> The Preamble and Policy text are adapted with permission from the University of Oregon Allegations of Research Misconduct Policy.

they, in good faith, believe to be a lack of integrity in scholarship and research. Examination of such a concern is a continuation of the search for intellectual truth, not a breach of collegiality. Seattle University seeks to emphasize education about ethical issues, to achieve consensus regarding good ethics, and to promote ethical research practices.

## **Policy**

**A.** This Policy applies to Allegations of Research Misconduct and Research Misconduct involving:

1. Applications or proposals for support for Research, research training or activities related to that Research or research training, such as the operation of tissue and data banks and the dissemination of Research information;
2. all Research, whether funded or not;
3. all research training programs, whether funded or not;
4. all activities that are related to Research or research training, such as the operation of tissue and data banks or the dissemination of Research information, whether funded or not; and
5. Plagiarism of Research Records produced in the course of Research, research training or activities related to that Research or research training. This includes any Research proposed, performed, reviewed or reported, or any Research Record generated from that Research; regardless of whether an application or proposal for extramural funds resulted in a grant, contract, cooperative agreement, or other form of extramural support.

**B.** This Policy does not apply to authorship or collaboration disputes.

**C.** This Policy applies only to Allegations of Research Misconduct that occurred within the timeframes set forth by the applicable agency regulations.

**D.** The University accepts the following definition established by the U.S. Public Health Service: Misconduct means Fabrication, Falsification, or Plagiarism in proposing, performing, or reviewing Research, or in reporting Research results. Fabrication is

making up data or results and recording or reporting them. Falsification is manipulating Research materials, equipment, or processes, or changing or omitting data or results such that the Research is not accurately represented in the Research Record. Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit. Research Misconduct does not include honest error or differences in opinion.

In order for a finding of Misconduct to be made, the following three criteria must be met:

1. There must be a significant departure from accepted practices of the relevant Research community; and
2. The Misconduct must be committed Intentionally, Knowingly or Recklessly, and;
3. The Allegation must be proven by a Preponderance of the Evidence. (42 CFR 93.103, 104; 45 CFR 689.1, 2(c), DoDI 3210.7 E2.1.4, 10)

**E. Confidentiality:** Disclosure of the identity of Respondents and Complainants in Research Misconduct Proceedings is limited, to the extent possible, to those who need to know, consistent with a thorough, competent, objective and fair Research Misconduct Proceeding.

Except as may otherwise be prescribed by applicable law, confidentiality must be maintained for any records or Evidence from which Research subjects might be identified. Disclosure is limited to those who have a need to know to carry out a Research Misconduct Proceeding.

### **Roles, Rights and Responsibilities**

The Provost or designee is responsible for the University's compliance with applicable federal regulations, including but not limited to notifying sponsoring agencies at the appropriate time and keeping the University's Inquiry Panels and Investigation Panels well informed with respect to the compliance requirements placed upon them. In the event the Provost or designee has a potential Conflict of Interest with respect to a particular Allegation



of Misconduct, the President or designee shall determine who shall be responsible for review of the particular Allegation.

For purposes of this Policy, the **Interim Associate Provost of Faculty Affairs** is the designee of the Provost for all Research Integrity Officer (RIO) responsibilities, unless the Provost makes another designation.

**A. Deciding Official (DO)** means the institutional official who makes final determinations on Allegations of Research Misconduct and any institutional administrative actions; the Provost serves as the Deciding Official. 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. A DO's appointment of an individual to assess Allegations of Research Misconduct, or to serve on an Inquiry Panel or Investigation Panel, is not considered to be direct prior involvement. The DO appoints the chair and members of the Inquiry Panel and Investigation Panel, ensures that those panels are properly staffed and ensures that there is expertise appropriate to carry out a thorough and authoritative evaluation of the Evidence. The DO also determines whether each person involved in handling an Allegation of Research Misconduct had an unresolved personal, professional or financial Conflict of Interest and shall 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, the DO will take all reasonable and practical steps to protect or restore the positions and reputations of Good Faith Complainants, witnesses, and panel members and counter potential or actual retaliation against them by Respondents or other Institutional Members. In the event the Provost or designee has a potential Conflict of Interest with respect to a particular Allegation of Misconduct, the President or designee shall determine who shall be responsible as DO for review of the particular Allegation.

The DO will receive the Inquiry report and after consulting with the RIO and/or other institutional officials, decide whether an investigation is warranted under the criteria in 42 CFR § 93.307(d), 7 CFR§ 3022.3 or other applicable regulation. Any finding that an

investigation is warranted must be made in writing by the DO and must be provided to the relevant federal agency, together with a copy of the inquiry report meeting the requirements of 42 CFR § 93.309, 45 CFR § 689.4(b)(2)(d), 7 CFR § 3022.6, DoDI 3210.7 E4.1.5 or other applicable regulation within 30 days of the finding. If it is found that an investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the Inquiry is retained for at least seven (7) years after termination of the Inquiry, so that the federal agencies may assess the reasons why the institution decided not to conduct an Investigation.

The DO will receive the Investigation report and, after consulting with the RIO and/or other institutional officials, decide whether Research Misconduct occurred and, if so, decide what, if any, institutional administrative actions are appropriate. The DO shall ensure that the final Investigative report, the findings of the DO and a description of any pending or completed administrative actions are provided to the correct federal agency, as required by regulation (42 CFR 93.315, 45 CFR 689.4(b)(5), 7 CFR 3022.10, DoDI 3210.7 E4.1.7).

**B. Research Integrity Officer (RIO)** means the institutional official responsible for: (1) assessing Allegations of Research Misconduct to determine if they fall within the definition of Research Misconduct, are covered by 42 CFR § 93, 45 CFR §689, 7 CFR § 3022, DoDI 3210.7 and other applicable regulations, 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. These responsibilities include the following duties related to Research Misconduct Proceedings:

1. Consult confidentially with persons uncertain about whether to submit an Allegation of Research Misconduct;
2. Receive Allegations of Research Misconduct;
3. Assess each Allegation of Research Misconduct in accordance with Procedures Section B of this Policy to determine whether it falls within the definition of Research Misconduct and warrants and Inquiry;

4. As necessary, take interim action and notify federal agencies of special circumstances, in accordance with Other Policy Principles Section F of this Policy;
5. Sequester Research data and Evidence pertinent to the Allegation of Research Misconduct in accordance with Other Policy Principles Section E of this Policy and maintain it securely in accordance with this Policy and applicable law and regulation;
6. Provide confidentiality to those involved in the Research Misconduct Proceeding as required by 42 CFR § 93.108, other applicable law, and institutional policy;
7. Notify the Respondent and provide opportunities for him/her to review/comment/respond to Allegations, Evidence and panel reports in accordance with Other Policy Principles Section D of this Policy;
8. Inform Respondents, Complainants and witnesses of the procedural steps in the Research Misconduct Proceeding;
9. Assist the DO in determining whether each 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;
10. In cooperation with other institutional officials, take all reasonable and practical steps to protect or restore the positions and reputations of Good Faith Complainants, witnesses, and panel members and counter potential or actual retaliation against them by Respondents or other Institutional Members;
11. Keep the Deciding Official and all relevant parties apprised of the progress of the review of the Allegation of Research Misconduct;
12. Notify and make reports to federal agencies as required by law;
13. Ensure that administrative actions taken by the institution and federal agencies are enforced and take appropriate action to notify other involved parties, such as sponsors, funding agencies, law enforcement agencies, professional societies, and licensing boards of those actions; and

14. Maintain records of the Research Misconduct Proceeding and make them available to federal agencies in accordance with Other Policy Principles Section G of this Policy.

**C. Complainant:** The Complainant is responsible for making Allegations in Good Faith, maintaining confidentiality, and cooperating with the Inquiry and Investigation. As a matter of good practice, the Complainant should be interviewed at the Inquiry stage, given the transcript or recording of the interview, and have the opportunity to correct and resubmit the transcription. The Complainant must be interviewed during an Investigation, be given the transcript or recording of the interview, and be able to correct and resubmit the transcription. The Complainant is entitled to:

1. reasonable and practical efforts by the institution to maintain the Complainant's identity in confidence, upon request.

**D. Respondent:** The Respondent is responsible for maintaining confidentiality and cooperating with the conduct of an Inquiry and Investigation. The Respondent is entitled to:

1. A Good Faith effort from the RIO to notify the Respondent in writing at the time of or before beginning an Inquiry;
2. An opportunity to comment on the Inquiry report and have his/her comments attached to the report;
3. 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 regulations and the institution's policies and procedures on Research Misconduct;
4. 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;

5. Be interviewed during the Investigation, have the opportunity to have the recording or transcript, to correct the transcript, and have the corrected transcript included in the record of the Investigation;
6. Have interviewed during the Investigation any witness who has been reasonably identified by the Respondent as having information on relevant aspects of the Investigation, have the recording or transcript provided to the witness, the opportunity for the witness to correct the transcript, and have the corrected transcript included in the record of Investigation; and
7. 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 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. With the advice of the RIO and/or other institutional officials, the Deciding Official may terminate the institution's review of an Allegation that has been admitted, if the institution's acceptance of the admission and any proposed settlement is approved by the appropriate federal agency. As provided by regulation and this Policy, the Respondent will have the opportunity to request an institutional appeal.

## **Other Policy Principles:**

### **A. Responsibility to Report Misconduct**

All Institutional Members will report observed, suspected, or apparent Research Misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of Research Misconduct, he or she may meet with or contact the RIO to discuss the suspected Research Misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the

individual do not meet the definition of Research Misconduct, the RIO will refer the individual or Allegation to other officials with responsibility for resolving the problem. At any time, an Institutional Member may have confidential discussions and consultations about concerns of possible Misconduct with the RIO and will be counseled about appropriate procedures for reporting Allegations.

#### **B. Cooperation with Research Misconduct Proceedings**

Institutional Members will cooperate with the RIO and other institutional officials in the review of Allegations and the conduct of inquiries and Investigations. Institutional Members, including Respondents, have an obligation to provide Evidence relevant to Research Misconduct Allegations to the RIO and other institutional officials.

#### **C. Protecting Complainants, Witnesses, and Panel Members**

Institutional Members may not retaliate in any way against Complainants, witnesses, or panel members. Institutional Members should immediately report any alleged or apparent retaliation against Complainants, witnesses or panel members to the RIO. The RIO will review the Allegation of retaliation and, if necessary, work with other institutional officials to make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

#### **D. 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 42 CFR Part 93 and the policies and procedures of the University. Respondents may consult with legal Counsel or a personal advisor (who is not a principal or witness in the case) to seek

advice and may bring the Counsel or the personal adviser to interviews or meetings on the case. However, Respondent's Counsel or personal advisor presence at interviews or meetings is restricted to advising (as opposed to representing or responding on behalf of) the Respondent.

#### **E. Sequestering the Evidence**

At the time of or before beginning an Inquiry, the RIO must make a Good Faith effort to notify the Respondent(s) in writing, if the Respondent is known. 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 federal agencies for advice and assistance in this regard.

The manner in which sequestration shall occur will to the maximum extent possible, while complying with 42 CFR 93.307, 7 CFR § 3022.11(b),(c) and other applicable federal regulations, protect the confidentiality of the Respondent and his or her ability to continue his or her program of Research.

#### **F. Interim Administrative Actions and Notification to Agencies 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 Public Health Service (PHS) or other federally supported Research process. In the event of such a threat, the RIO will, in consultation with other institutional officials and appropriate federal agencies, take appropriate interim action to protect

against any such threat. Interim action might include additional monitoring of the Research process and the handling of federal funds and equipment, reassignment of personnel or of the responsibility for the handling of federal 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 appropriate federal agency immediately if he/she has reason to believe that any of the following conditions exist:

1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
2. Federal agency resources or interests are threatened;
3. Research activities should be suspended;
4. There is a reasonable indication of possible violations of civil or criminal law;
5. The Research Misconduct Proceeding at any point reveals behavior that may be criminal in nature;
6. Federal action is required to protect the interests of those involved in the Research Misconduct Proceeding;
7. The Research Misconduct Proceeding may be made public prematurely and appropriate federal agency action may be necessary to safeguard Evidence and protect the rights of those involved; or,
8. The Research community or public should be informed.

#### **G. Maintaining Records for Federal Agency Review**

The RIO must maintain and provide to appropriate federal agencies upon request "records of Research Misconduct Proceedings." Unless custody has been transferred to a federal agency or a federal agency has advised in writing that the records no longer need to be retained, records of Research Misconduct Proceedings must be securely maintained for seven(7) years after completion of the proceeding or the completion of any federal agency proceeding involving the Research Misconduct Allegation. The RIO is also responsible for providing any information, documentation, Research Records, Evidence or clarification requested by a federal agency to carry out its review of an Allegation of Research Misconduct or of the institution's handling of such an Allegation.



## **H. Completion of Cases; Reporting Premature Closures to Federal Agencies**

Generally, all Inquiries and Investigations will be carried through to completion and all significant issues will be pursued diligently. The RIO must notify the appropriate federal agency 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, which must be reported to the appropriate federal agency, as prescribed in this Policy.

## **I. Respondent 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.

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 phases, as appropriate based on the outcome of the preceding steps. If the Respondent refuses to participate in the process after resignation, the RIO, DO and any Inquiry or Investigation Panel 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.

## **Exclusions and Special Situations**

### **A. Interim Administrative Actions and Notifying Federal Agencies 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 PHS supported Research process. In the event of such a threat, the RIO will, in consultation with other institutional officials and federal agencies, take appropriate interim action to protect against any such threat. Interim action might include additional monitoring of the Research process and the handling of federal funds and equipment, reassignment of personnel or of the responsibility for the handling of federal 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 federal agencies immediately if he/she has reason to believe that any of the following conditions exist:

1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
2. Federal Agency resources or interests are threatened;
3. Research activities should be suspended;
4. There is a reasonable indication of possible violations of civil or criminal law;
5. The Research Misconduct Proceeding at any point reveals behavior that may be criminal in nature;
6. Federal action is required to protect the interests of those involved in the Research Misconduct Proceeding;
7. The Research Misconduct Proceeding may be made public prematurely and Federal Agency action may be necessary to safeguard Evidence and protect the rights of those involved; or
8. The Research community or public should be informed.

## Procedure

### A. Allegation

1. **Allegation.** Any member of the University or other person who chooses to make an Allegation shall contact the RIO.
2. **Evidence.** Allegations must be supported by Evidence.
3. **Misconduct vs. Unacceptable or Questionable Research Practices.** Concerns expressed as part of an Allegation may not rise to the level of Research Misconduct.
4. **Good Faith.** Allegations must be made in Good Faith.

### B. Preliminary Assessment

1. **Consultation.** The RIO shall advise the DO and Office of the University Counsel of all Allegations.
2. **Preliminary Assessment.** In the event of an Allegation, the RIO shall promptly conduct a Preliminary Assessment to determine whether an Inquiry is warranted. Preliminary Assessments generally will be finalized within 15 business days.
3. **Nature and Purpose of the Preliminary Assessment.** The Preliminary Assessment is a preliminary process whose purpose is to cull out a clearly erroneous, unsubstantiated, or Bad Faith Allegation before the Respondent is subjected to an Inquiry or an Investigation. Hence, in conducting the Preliminary Assessment, the RIO is not obligated to do any interviews on the Allegation or to engage in an exhaustive review of all Evidence relevant to such Allegation. However, should testimony be obtained during a Preliminary Assessment, it shall be obtained from Complainants, Respondents, witnesses or other involved parties through private interviews rather than through a formal Inquiry process.
4. **Sequestration of Evidence.** Any Evidence brought forward by Complainants, Respondents, Witnesses or others or solicited by the RIO during the Preliminary Assessment will be appropriately sequestered.
5. **Preliminary Assessment - Standard of Determination.** The RIO, in consultation with the DO and the Office of the University Counsel shall determine that an Inquiry is warranted if, in his or her judgment, (1) the Respondent's alleged

conduct could constitute Misconduct or Unacceptable Research Practices, and (2) there is credible Evidence to support further review of the Allegation.

6. **Inquiry Warranted.** If the RIO determines that an Inquiry is warranted, the RIO shall prepare a written Preliminary Assessment which explains the basis for his or her determination. The RIO shall transmit copies of the written Preliminary Assessment to the Respondent and the DO. The RIO shall also notify the Complainant of the outcome of the Preliminary Assessment and provide the Complainant with a brief summary of the Preliminary Assessment.
7. **Inquiry Not Warranted - End of Review.** If the RIO determines that an Inquiry is not warranted, the RIO shall prepare a Preliminary Assessment report that states the basis and rationale for his or her determination. The RIO shall provide a copy of the Preliminary Assessment report to the Respondent, the Complainant, and the DO. The determination that an Inquiry is not warranted shall conclude the University's review of that Allegation.
8. **Bad Faith.** If the RIO concludes that the Complainant acted in Bad Faith in making the Allegation, or that the Complainant or any witness acted in Bad Faith during the Preliminary Assessment, the RIO shall refer the matter for administrative review and appropriate action as set forth in Procedure Section L below.

### **C. Inquiry**

1. **Appointment.** If it is determined that an Inquiry is warranted, the DO shall promptly appoint an Inquiry Panel of at least three members, chosen for their pertinent expertise. While Inquiry Panels will usually be composed of University faculty, they may also include persons other than University faculty when the DO determines that such persons have experience or expertise useful to the Inquiry. The DO shall select one of its panel members to act as the Inquiry Panel chairperson.
2. **Charge.** The DO, with the assistance of the RIO, shall draft a Charge to the Inquiry Panel based upon the written Preliminary Assessment. The DO shall

submit that Charge and a copy of the written Preliminary Assessment to the Inquiry Panel and the Respondent at the beginning of the Inquiry.

3. **Briefing.** Before the Inquiry begins, the RIO and an attorney from the Office of the University Counsel shall brief the Inquiry Panel on this Policy, other relevant University regulations, and legal and procedural issues that the Inquiry Panel is likely to encounter in conducting the Inquiry.
4. **Standard for Determination.** The Inquiry Panel and the DO shall conduct the Inquiry to determine whether an Investigation is warranted. Based on the Inquiry Panel's report, the DO shall determine that an Investigation is warranted if, in her or his judgment, an Investigation could reasonably result in a finding that Misconduct occurred. To so determine, the DO must find that the Respondent's alleged conduct could constitute Misconduct and that there is credible Evidence to support further review of the Allegation. Furthermore, the DO must also find that there is sufficient credible Evidence that an Investigation could reasonably conclude with a finding that Misconduct occurred, in accordance with the criteria in Procedure Section F(5) below. The Inquiry is completed when the DO makes this determination.
5. **Purpose and Nature of Inquiry.** Like the Preliminary Assessment, the Inquiry is a preliminary process. Its purpose is to cull out an insufficiently substantiated, erroneous, or Bad Faith Allegation before the Respondent is subjected to an Investigation. Although it is expected that the Inquiry will be more comprehensive than the Preliminary Assessment, the members of the Inquiry Panel, like the RIO, are not obligated to conduct any interviews on the Allegation or to engage in an exhaustive review of all Evidence relevant to the Allegation.
6. **Assistance for Inquiry Panel.** The RIO shall secure for the Inquiry Panel such special scientific or technical assistance as it requests to evaluate an Allegation.
7. **Evidence:** All Inquiry Panel requests for review of Evidence shall be made to and managed by the RIO.
8. **Communication with Involved Parties:** All Inquiry Panel communication with Complainants, Respondents, witnesses and other involved persons will be made through and managed by the RIO.

9. **Other RIO Participation:** The RIO shall provide training with respect to regulatory requirements, and administrative support to the Inquiry Panel. The RIO will not participate in the deliberations of the Inquiry Panel. The Inquiry Panel may request the assistance of the RIO during its deliberations and in the preparation of the Inquiry report.
10. **Timing.** The work of the Inquiry Panel shall be completed within 60 days of its inception unless circumstances warrant a longer period, in which event the Inquiry Panel Chair person or the RIO shall notify the DO and the Respondent of the reason for the delay and the date on which the Inquiry is expected to be completed. The DO shall decide whether the delay is warranted. If the DO determines that it is, the RIO shall so notify the Respondent. If the DO finds the delay unwarranted, the RIO shall work with the Respondent, the Inquiry Panel to expedite completion of the Inquiry, but the Inquiry shall continue until its completion if, despite their diligent efforts, it cannot be finished in 60 days. The RIO shall make the report about the delay part of the Misconduct Proceeding Records and notify the appropriate federal agencies.

#### **D. Inquiry Report**

1. **Content.** The Inquiry Panel shall prepare an Inquiry report that reflects the perspectives of all members of the panel, with the following information:
  - a. the name and position of the Respondent if the Respondent is an employee of the University, or the name and degree program of the Respondent if the Respondent is a student at the University;
  - b. the nature of the alleged Misconduct and how it does or does not fit within the definition of Misconduct;
  - c. a description of the Evidence it reviewed and the sufficiency, credibility, and merit of that Evidence; and,
  - d. summaries of any interviews it conducted.
2. **Deviation from Practice.** If the alleged Misconduct involves a serious deviation from commonly accepted practices, Evidence of such practices and an analysis of the Allegation in light of such practices shall be included in the Inquiry report.

3. **Draft Report; Comments.** The RIO shall send the Respondent a copy of the draft Inquiry report. The Respondent may return comments on the draft Inquiry report to the RIO within seven days of receipt of the draft Inquiry report. If the Respondent comments on the draft Inquiry report, the Inquiry Panel shall consider such comments and make any changes in the Inquiry report it deems appropriate in light of such comments. The Respondent's comments shall be included as an appendix to the final Inquiry report.
4. **DO Opinion on Final Draft Report.** After making any changes it deems appropriate in the draft Inquiry report in light of the Respondent's comments, the Inquiry Panel shall prepare a final draft of the Inquiry report. The RIO shall send the DO a copy of the final draft of the Inquiry report, attaching any RIO comments regarding procedural questions and concerns. If the DO, with advice from the Office of the University Counsel, finds that the final draft Inquiry report reflects procedural error by the Inquiry Panel in conducting the Inquiry, the DO shall so inform the RIO and shall submit an opinion to the RIO and the Inquiry Panel, within 14 days after delivery of the final draft Inquiry report to the DO, to identify and explain the Inquiry Panel's procedural error. The Inquiry Panel shall either correct the error before completing the Inquiry report, or shall notify the DO in the final Inquiry report or concurrently with its issuance that it does not believe a material procedural error occurred. The opinion by the DO, if one was issued, shall be included as an appendix to the final Inquiry report.

#### **E. Determination Regarding Investigation**

1. **DO Determination on Investigation.** Following delivery of the final Inquiry report to the DO, the DO shall prepare a written determination as to whether an Investigation is warranted. The DO may request the assistance of the RIO in the preparation of the determination, but shall not seek the RIO's opinion as to whether an Investigation is warranted.
  - a. **Investigation Warranted.** If the DO determines that an Investigation is warranted, the written determination may be summary in nature, provided that the DO sets forth the Evidence that supports his or her determination

in sufficient detail for the Respondent and an Investigation Panel to understand the basis for the DO's decision.

- b. **Investigation Not Warranted.** If the DO determines that an Investigation is not warranted, the written determination shall be more comprehensive and shall include a detailed statement of why the Respondent's alleged conduct would not, under the definition in these Procedures, constitute Misconduct, or why the available Evidence is insufficient, or lacks sufficient credibility or merit, to warrant an Investigation.
2. **Distribution of Final Report and DO Determination.** The RIO shall send the Respondent a copy of the final Inquiry report and the determination of the DO.
3. **Initiation of Investigation.** If the DO determines that an Allegation warrants an Investigation, he or she shall initiate an Investigation.
4. **No Investigation.** If the DO determines that an Investigation is not warranted, this determination will conclude the University's review of that Allegation, except as provided in Procedure Section J below.
5. **Bad Faith.** If the DO concludes that the Complainant acted in Bad Faith in making the Allegation, or that the Complainant or any witness acted in Bad Faith during the Inquiry, the DO shall refer the matter for administrative review and appropriate action, as set forth in Procedure Section L below.
6. **Notification.** Promptly after completion of the Inquiry, the RIO shall notify the Complainant of its outcome and provide the Complainant with a brief summary of the Inquiry report and the determination of the DO.

## **F. Investigation**

1. **Investigation Panel.** The DO shall initiate an Investigation within 30 days of his or her determination that an Investigation is warranted. The DO shall appoint an Investigation Panel of not less than three members, chosen for their pertinent expertise. While Investigation Panels will usually be composed of University faculty, they may also include persons other than University faculty when the DO determines that such persons have experience or expertise useful to the



Investigation. The DO shall select one of the Investigation Panel members to act as its chairperson.

2. **Notifications.**

- a. Notification - Internal. The RIO shall notify the Provost and the University Counsel's Office of the initiation of the Investigation.
- b. Notification - Funding Source. When the alleged Misconduct involves Research supported by an external (non-University) funder, the RIO shall work with the **Office of Sponsored Projects** to also notify the source of the funding of the Investigation before the start of the Investigation. Such notification shall include the name of the Respondent, the general nature of the Allegation, and the relevant grant application, grant number, or other identification for the support.

3. **Charge.** The DO, with the assistance of the RIO, shall draft a Charge to the Investigation Panel based on the Inquiry report and the determination of the DO. The RIO shall submit a copy of that Charge, the Preliminary Assessment referral, the Inquiry report, and the determination of the DO to the Investigation Panel and the Respondent at the beginning of the Investigation.

4. **Briefing.** Before the Investigation begins, an attorney from the Office of the University Counsel and the RIO shall brief the Investigation Panel on this Policy, other relevant University regulations, and legal and procedural issues that the Investigation Panel is likely to encounter in conducting the Investigation.

5. **Standard for Determination.** Based on the Investigation Panel's report, the DO shall determine if Misconduct occurred, if the Respondent was responsible for it, and the extent, gravity, and actual and potential consequences of the Misconduct. To conclude that Misconduct occurred, the DO must find:

- a. a significant departure from accepted practices of the relevant Research community; and
- b. that the Misconduct was committed Intentionally, Knowingly, or Recklessly; and
- c. that the Allegation was proven by a Preponderance of the Evidence.

6. **Evidence Review.** The Investigation Panel shall examine all Evidence that it deems pertinent to the Allegation. All Investigation Panel requests to review Evidence shall be made to and managed by the RIO. At its discretion, the Investigation Panel may also inspect laboratories and examine laboratory specimens, materials, procedures, and methods. The Respondent will be provided copies of, or supervised access to, all Evidence made available to the Investigation Panel.
7. **Testimony.**
  - a. Interviews. When possible, the Investigation Panel shall conduct interviews with the Complainant, the Respondent, and other persons, if any, who have material information regarding the Allegation.
  - b. Transcript. The RIO shall arrange for the preparation of a transcript of each witness's interview testimony and shall send the transcript to the witness for comment or correction. The witness shall have seven days after his or her receipt of the transcript to deliver comments on, and corrections of any errors in, the transcript to the RIO. Both the transcript and any such comments and corrections shall be made part of the Misconduct Proceeding Records. The RIO shall give the Respondent a copy of the corrected transcript of any interview testimony.
8. **Communication with Involved Parties.** All Investigation Panel communication with Complainants, Respondents, witnesses and other involved persons will be made through and managed by the RIO.
9. **Assistance for Investigation Panel.** If the Investigation Panel decides that it needs special scientific or technical expertise to evaluate an Allegation, it shall so advise the RIO, who shall secure for the Investigation Panel the assistance that it requests.
10. **Other RIO Participation.** The RIO shall provide training with respect to regulatory requirements, and administrative support to the Investigation Panel. The RIO will not participate in the deliberations of the Investigation Panel. The Investigation Panel may request the assistance of the RIO during its deliberations and in the preparation of the Investigation report.

11. **Timing.** The work of the Investigation Panel shall be completed within 120 days of its inception, or a request for extension shall be made.

- a. **Extension.** If the work of the Investigation Panel cannot be completed in that period, the Investigation Panel chair or the RIO may request an extension from the DO, in which event the RIO shall notify the Respondent of the reason for the delay and the date on which the Investigation is expected to be completed. The report about the delay shall be included in the Misconduct Proceeding Records. If the alleged Misconduct involves Research supported by a federal funding source, the RIO shall notify it of the delay; request an extension; explain why the extension is necessary; and provide a progress report of the Investigation Panel's and the DO's activities to date and an estimate of the completion date of the Investigation.
- b. **Notice of Stay.** If the Investigation is stayed and the alleged Misconduct involves Research supported by a federal funding source, the RIO shall promptly inform it of the date and expected duration of the stay, and of the reason for staying the Investigation.

## **G. Investigation Report**

1. **Content.** The Investigation Panel shall prepare a written Investigation report that reflects the perspectives of all members of the panel. It shall include:
  - a. the name, degree(s) and position(s) of the Respondent;
  - b. the relevant application or grant number, if the alleged Misconduct involves sponsored Research;
  - c. a description of the Allegation and the name, if known and not held in confidence, of the Complainant;
  - d. a summary of the Evidence reviewed, including, without being limited to, an account of how and from whom it was obtained;
  - e. a transcript of each interview conducted during the Investigation;
  - f. for each separate Allegation, an analysis of any explanation offered by the Respondent and the Evidence in support thereof;

- g. an analysis of each separate Allegation pursuant to the standards set forth in Procedure Section F(5) above;
  - h. in an Allegation of serious deviation from accepted practices, a description of the Evidence regarding the accepted practices in the discipline and an analysis of the Allegation in light of such practices;
  - i. a copy of this Policy and any other University policies and procedures relevant to the Investigation.
- 2. **Draft Report; Comments.** The RIO shall send the Respondent a copy of the draft Investigation report. The Respondent may return comments on the draft Investigation report to the RIO within 30 days of receipt of the draft Investigation report. If the Respondent comments on the draft Investigation report, the Investigation Panel shall consider such comments and make any changes in the Investigation report it deems appropriate in light of such comments. The Respondent's comments shall be included as an appendix to the final Investigation report.
- 3. **DO Opinion on Final Draft Report.** After making any changes it deems appropriate in the draft Investigation report in light of the Respondent's comments, the Investigation Panel shall prepare a final draft of the Investigation report. The RIO shall send the DO a copy of the final draft of the Investigation report, attaching any RIO comments regarding procedural questions and concerns. If the DO, with advice from the Office of the University Counsel, finds that the final draft Investigation report reflects procedural error by the Investigation Panel in conducting the Investigation, the DO shall so inform the RIO and shall submit an opinion to the RIO and the Investigation Panel, within 14 days after delivery of the final draft Investigation report to the DO, to identify and explain the procedural error. The Investigation Panel shall either correct the error before completing the Investigation report or shall notify the DO in, or concurrently with the issuance of, the final Investigation report that it does not believe a material procedural error occurred. The opinion by the DO, if one was issued, shall be included as an appendix to the final Investigation report.

## H. Determination Regarding Misconduct

1. **DO Determination on Misconduct.** Following delivery of the final Investigation report to the DO, the DO shall prepare a written determination as to whether Misconduct occurred. The DO may request the assistance of the RIO in the preparation of the determination, but shall not seek the RIO's opinion as to whether Misconduct occurred.
2. **Misconduct Finding.** If the DO finds that Misconduct occurred, the written determination must include:
  - a. the DO's determination that:
    - 1) there was a significant departure from accepted practices of the relevant research community; and
    - 2) the Misconduct was committed Intentionally, Knowingly, or Recklessly; and
    - 3) the Allegation was proven by a Preponderance of the Evidence; and
  - b. a determination whether any part of the Research Record needs correction or retraction as a result of the finding of Misconduct, and, if so, an explanation of that correction or retraction.
3. **No Misconduct Found.** If the DO does not find that Misconduct occurred, he/she shall explain the reasons for his or her decision in the written determination, with specific reference to the pertinent criteria set forth in Procedure Section F(5) above.
4. **Bad Faith.** If the DO concludes that the Complainant acted in Bad Faith in making the Allegation, or that the Complainant or any witness acted in Bad Faith during any Misconduct Proceeding, the DO shall refer the matter for administrative review and appropriate action as set forth in Procedure Section L.
5. **Distribution of Final Report and Determination; Comments.** The RIO shall send a copy of the final Investigation report and the DO's determination regarding Misconduct to the Respondent. The Respondent may deliver comments on the Investigation report and the DO's determination to the RIO within 14 days of the delivery of the final Investigation report and DO's determination to the

Respondent. The RIO shall include any such comments in the Misconduct Proceeding Records.

**6. Notifications.**

- a. Complainant. Promptly after completion of the Investigation, the RIO shall notify the Complainant of its outcome and provide the Complainant with a brief summary of the Investigation report and the DO's determination regarding Misconduct, including those portions of the Investigation report and the DO's determination that address the Complainant's role and testimony, if any, in the Investigation.
- b. Federal Support. When the alleged Misconduct involves Research supported by a federal funding source, the RIO shall submit the Investigation report, the DO's determination regarding Misconduct, and comments from the Respondent on the Investigation report and determination, if submitted, to the federal funding source. It may accept the Investigation outcome, ask for clarification or additional information, which shall be provided by the RIO or commence its own independent investigation.
- c. Other Funding Source. When the Alleged Misconduct involves Research supported by a non-federal funding source, the RIO shall notify it of the outcome of the Investigation promptly after the completion of the Investigation and provide it with a brief summary of the Investigation report, the DO's determination regarding Misconduct, and such other information, if any, as it may request in response to the RIO's notification.

**I. Appeal**

1. **Right.** A Respondent who has applied for or received support from a federal funding source for the Research in relation to which the Misconduct occurred may have the right under federal funding source regulations to appeal a finding of Misconduct by the DO as part of an Investigation to that federal funding source. In addition, all Respondents who are found to have committed Misconduct have

the right to an internal University appeal. During appellate proceedings no sanction will be imposed and no disciplinary proceeding will be commenced as a consequence of the finding of Misconduct.

2. **External Appeal Record.** If the Respondent appeals a finding of Misconduct by the DO as part of an Investigation to a federal funding source, the RIO shall attempt to obtain copies of all documents filed in that appeal.
3. **Procedure.**
  - a. **Internal Appeal.** The Respondent may appeal a finding of Misconduct to the RIO within 30 days of the date of the finding. The appeal must be in writing and must set forth the reasons (whether substantive or procedural) the Respondent believes the finding of Misconduct is wrong. The RIO will submit the appeal to the President for decision.
  - b. **Review and Recommendation.** The President may appoint a University faculty member or administrator who does not have a Conflict of Interest and who has not previously been involved in the review of the Allegation under this Policy to review the Misconduct Proceeding Records and the appeal and make recommendations to the President.
  - c. **Request for Additional Information.** The President, or the President's designee, may request further information about the Misconduct Proceedings in writing from the RIO. A copy of such information shall be provided to the Respondent.
  - d. **Basis for Decision.** The President's decision on the appeal shall be based on the Misconduct Proceeding Records, as clarified or supplemented by the RIO in response to any request for further information about the Misconduct Proceedings, and the Respondent's appeal.
4. **New Evidence.** If the RIO learns of previously unavailable material Evidence relevant to the finding of Misconduct during the appeal, the RIO shall inform the President and the Respondent of the new Evidence. If the President concurs that the new Evidence could materially affect the finding of Misconduct, the President shall remand the finding of Misconduct to the DO for his or her consideration of the new Evidence. The DO may consult as necessary members of the

Investigation Panel. The DO shall notify the President within 14 days that he/she finds the new Evidence immaterial to his or her prior finding or that he/she wishes to reopen the matter. The President may extend this period for good cause by notice to the Respondent and the RIO.

5. **Decision.** The President shall issue a decision and rationale affirming or reversing the finding of Misconduct within 30 days after the submission of the appeal to the RIO. The President may extend this period for good cause by notice to the Respondent and the RIO.

## **J. Final Resolution and Outcome**

1. **Exoneration.** If the Preliminary Assessment results in a determination that an Inquiry is not warranted, or if the DO decides, as part of an Inquiry, that an Investigation is not warranted, or if the DO does not find, as part of an Investigation, that Misconduct has occurred, or if a finding of Misconduct is reversed on appeal, the RIO and the administration shall make diligent efforts to restore the Respondent's reputation. These efforts shall be undertaken in consultation with the Respondent, provided that they shall:
  - a. be reasonable and practicable under the circumstances and proportionate to the damage to the Respondent's reputation as a result of the Allegation;
  - b. be consistent with applicable federal funding source expectations, if the Research which was the subject of the Allegation was supported by that federal funding source; and
  - c. not affect the University's ability to take action against the Respondent for Unacceptable Research Practices which come to the University's attention as a result of the review of the Allegation under this Policy.
2. **Misconduct Found.**
  - a. **Actions.** When there is a final decision that Misconduct has occurred:
    - 1) the DO shall take appropriate actions in response to the finding of Misconduct. Such actions may include:
      - i. the imposition of sanctions within the authority of the DO and initiating University disciplinary proceedings



- appropriate to the finding of Misconduct pursuant to applicable University policies, procedures, and contracts, or
- ii. referring the finding of Misconduct to another administrator who has authority to impose sanctions and initiate disciplinary proceedings; and
- 2) the RIO, after consultation with the Office of the University Counsel and the DO, shall attempt to correct, and/or seek retraction of, any part of the Research Record materially affected by the Misconduct. The Respondent will not interfere with the RIO's efforts in these regards.
- b. **Disciplinary Action.** The University views Misconduct as grounds for disciplinary action pursuant to applicable University policies, procedures, and contracts, including procedures for challenging or grieving disciplinary action.
  - c. **Degree Revocation.** Misconduct which materially affects the original scholarly or creative work included in a master's or doctoral thesis submitted in fulfillment of degree requirements at the University constitutes grounds for the revocation of that degree.
  - d. **Government Sanctions.** In addition to sanctions imposed by the University, certain federal funding sources may impose sanctions of their own, if the Misconduct involved Research which they supported.
  - e. **Serious Deviation.** The University may take action, including disciplinary action, in response to a finding of Misconduct based on a serious deviation from accepted practices even if an Allegation against the same Respondent based on Fabrication, Falsification, or Plagiarism has not been sustained and the University has an obligation under Procedure Section J(1) above with respect to the unsustained Allegation.
3. **New Evidence.** If, following a final nonappealable decision that Misconduct has occurred, the Respondent learns of previously unavailable material Evidence relevant to the determination of Misconduct, the Respondent shall send that Evidence to the RIO with an explanation of its origin and importance. The RIO

shall submit the new Evidence to the DO. The DO shall promptly consider the new Evidence and notify the President of its impact on the Investigation report and on the finding of Misconduct. The DO may consult with the Investigation Panel as needed. Based on the new Evidence and the information from the DO, the President may reverse or affirm the previous finding of Misconduct, or remand the matter to the DO to conduct a new Investigation in light of the new Evidence. The President shall issue that decision with stated rationale within 30 days of receiving the notice from the DO, but may extend this period for good cause by notice to the Respondent and the RIO.

4. **Termination.** If the DO terminates the review of any Allegation, an explanation for such termination shall be included in the Misconduct Proceeding Records.

#### **K. Unacceptable or Questionable Research Practices**

1. **Referral from Proceedings.** During an Inquiry, the DO may find that, while a Respondent's conduct does not warrant an Investigation, it nevertheless constitutes an Unacceptable or Questionable Research Practice. Similarly, during an Investigation, the DO may find that, while a Respondent's conduct does not constitute Misconduct, it nevertheless constitutes an Unacceptable or a Questionable Research Practice. Any such finding shall be referred to the appropriate administrator for review. The administrator may deem further action appropriate, including, in the case of Unacceptable Research Practices, disciplinary action pursuant to applicable University policies, procedures, and contracts, including procedures for challenging or grieving disciplinary action.
2. **Discovery and Report.** Unacceptable or Questionable Research Practices may also be discovered in circumstances other than a review of an Allegation under this Policy. When that happens, the alleged Unacceptable or Questionable Research Practice should be referred to the appropriate administrator for review and such further action, if any, as the administrator may deem appropriate, including, in the case of Unacceptable Research Practices, disciplinary action pursuant to applicable University policies, procedures, and contracts, including procedures for challenging or grieving disciplinary action.

## **L. Bad Faith**

### **1. Complainant or Witness.**

- a. Referral for Action. If the RIO or the DO concludes that a Complainant or witness who is a University employee or student acted in Bad Faith in a Misconduct Proceeding, the matter shall be referred to the appropriate administrator for review. The administrator may deem further action appropriate, including disciplinary action.
- b. Discipline. The University views Bad Faith by a Complainant or witness who is a University employee or student as grounds for disciplinary action pursuant to applicable University policies, procedures, and contracts, including procedures for challenging or grieving disciplinary action.

### **2. Inquiry and Investigation Panel Members, RIO.**

- a. Investigation. If the DO receives a complaint or report that an Inquiry Panel member, an Investigation Panel member, or the RIO did not act in Good Faith in carrying out any of his or her duties under these Procedures, the DO will investigate the complaint or report, with advice from the Office of the University Counsel, and in cooperation with the RIO, if the complaint or report is not against or about the RIO.
- b. DO Action. If the DO concludes that the individual about whom the complaint is made did not act in Good Faith in carrying out any of his or her duties under this Policy, and that the failure to act in Good Faith had a materially adverse impact on any Misconduct Proceeding, the DO shall:
  - 1) take such action as may be necessary to preserve the integrity of the review of the Allegation, including, without being limited to, replacing the affected individual, abrogating the Misconduct Proceeding so affected and any subsequent Misconduct Proceedings in which the same Allegation was reviewed, and initiating new Misconduct Proceedings to substitute for those abrogated; and

- 2) refer the matter to the appropriate administrator for review and such action, if any, as the administrator may deem appropriate, including disciplinary action in instances of Bad Faith.
- c. Discipline. The University views Bad Faith by a member of an Inquiry Panel, a member of an Investigation Panel, or the RIO as grounds for disciplinary action pursuant to applicable University policies, procedures, and contracts, including procedures for challenging or grieving disciplinary action.

## **M. Protecting Participants in Misconduct Proceedings**

1. **Protection of Position and Reputation.** The University shall make diligent efforts to protect the position and reputation of each individual who has, in Good Faith, participated in a Misconduct Proceeding as a Complainant, witness, Inquiry Panel member, Investigation Panel member, Counsel, or RIO, or who has otherwise cooperated in the review of an Allegation under these Procedures.

These efforts shall be:

- a. reasonable and practical under the circumstances;
- b. proportionate to the risk to the individual's position and reputation; and
- c. consistent with applicable funder expectations, if the Research which was the subject of the Allegation was supported by a federal funding source.

2. **Retaliation.**

- a. Prohibition. University employees and students shall not engage in or threaten Retaliation.
- b. Referral for Action. If the RIO receives a complaint or report of Retaliation or threatened Retaliation by a University employee or student, the RIO shall refer the matter to the appropriate administrator for review and such action, if any, as the administrator may deem appropriate, including disciplinary action.
- c. Discipline. The University views Retaliation by a University employee or student as grounds for disciplinary action pursuant to applicable

University policies, procedures, and contracts, including procedures for challenging or grieving disciplinary action.

- d. Protection against Retaliation. The University shall make diligent efforts to provide protection against Retaliation by individuals who are not University employees or students. These efforts shall be reasonable and practical under the circumstances and, if the Research which was the subject of the Allegation whose review led to the Retaliation was supported by a federal funding source, shall be consistent with applicable funder expectations.

### Units Affected

- Departments
- Colleges/Schools
- Office of Sponsored Projects
- Office of the Provost
- University Counsel

### Who is Governed

All faculty, staff, students, and any person who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with Seattle University.

### Governing Regulations

- 42 CFR 93

### REVIEWED AND APPROVED BY

Robert Dullea

Robert Dullea, Ph.D., Interim Provost

2/2/17

Date

ISSUED BY Office of the Provost