

POLICY ON ACADEMIC MISCONDUCT IN SCHOLARLY ACTIVITIES

I. INTRODUCTION

A. General policy

The University of Alabama (UA or University) has developed these policies and procedures for responding to allegations of misconduct in research and scholarship based on the U.S. Department of Health and Human Services, 42 CFR Parts 50 and 93, Public Health Service Policies on Research Misconduct; Final Rules, May 17, 2005.

The University of Alabama strives to create a research climate that promotes faithful adherence to high ethical standards in the conduct of research and scholarship without inhibiting the productivity and creativity of persons involved in research and/or scholarship. Misconduct or fraud in research or scholarship is an offense that damages not only the reputation of those involved but also that of the institution and the entire educational community.

B. Scope

This policy and the associated procedures apply to all UA employees and any person paid by, under the control of, or affiliated with UA at the time the alleged misconduct occurred. Such individuals include, but are not limited to, officials, tenured and untenured faculty, teaching and support staff, researchers, research coordinators, technicians, postdoctoral and other fellows, students, volunteers, and agents engaged in research or scholarship. It also applies to any research, research-training or research-related grant, contract, cooperative agreement or other sponsored project and all scholarship activities.

The policy and associated procedures will be followed when the Vice President for Research receives an allegation of possible misconduct in research or scholarship. Particular circumstances in an individual case may dictate variation from the normal procedure. Any change from normal procedures must ensure fair treatment to the subject of the inquiry or investigation. The Provost and Vice President for Research must approve in advance any significant deviation from these policies and procedures.

Should the requirements of a granting agency be different from those of this policy, the granting agency's requirements shall be considered a part of this policy and incorporated in the investigation of possible misconduct involving a grant from the agency. The Vice President for Research shall ensure that the University complies with the requirements of each granting agency, including requirements that the University report to the agency concerning allegations and/or findings of misconduct.

This policy does not apply to UA students accused of academic misconduct. The Academic Misconduct Disciplinary Policy is Appendix C in the Faculty Handbook.

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II. DEFINITIONS

Allegation means any written or oral statement or other indication of possible misconduct in research or scholarship made to an institutional official.

Complainant means a person who makes an allegation of misconduct in research or scholarship.

Evidence means any document, tangible item, or testimony offered or obtained during a misconduct in research or scholarship proceeding that tends to prove or disprove the existence of an alleged fact.

Fabrication is intentionally creating data or results and recording or reporting them without a basis in fact.

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.

Good Faith as applied to a Complainant or witness, means having a belief in the truth of one's allegation or testimony that a reasonable person in the Complainant or witness's position could have based on the information known to the Complainant or witness at the time. An allegation of research or scholarly misconduct or cooperation with a research or scholarly misconduct proceeding is not in good faith if made or done with knowing or reckless disregard for information that would negate the allegation or testimony. Good faith as applied to Panel members means cooperating with the research or scholarship misconduct proceeding by carrying out the duties assigned impartially for the purpose of helping UA meet its responsibilities. A panel member does not act in good faith if his/her acts or omissions on the panel are dishonest or influenced by unresolved personal, professional, or financial conflicts of interest with those involved in the research or scholarship misconduct proceeding.

Inquiry means preliminary information-gathering and fact-finding to determine whether an allegation or apparent instance of misconduct in research or scholarship warrants an investigation.

Inquiry Panel is a panel appointed by the Vice President for Research to determine whether an allegation or apparent instance of misconduct in research or scholarship warrants an investigation.

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Investigation means the formal examination and evaluation of all relevant facts to determine if misconduct in research or scholarship has occurred and, if so, to determine the responsible person and the seriousness of the misconduct.

Investigation Panel is a panel of faculty and administrators appointed by the Provost with sufficient expertise to conduct the investigation.

Misconduct in Research or Scholarship means intentional, knowing, or reckless fabrication, falsification, plagiarism, or other practices that are a significant departure from those that are commonly accepted within the relevant research or academic community in proposing, performing, or reviewing research or scholarship or in reporting research and scholarship. Misconduct in Research or Scholarship does not include honest error or differences of opinion.

Office of Research Integrity or ORI means the Office to which the Secretary of Health and Human Services (HHS) has delegated responsibility for addressing research integrity and misconduct issues relating to Public Health Service supported activities.

Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving credit appropriate to the context and discipline.

Research or Scholarship Record means the record of data or results that embody the facts resulting from scientific inquiry, such as any data, document, computer file, 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 or scholarship that constitutes the subject of an allegation of misconduct in research or scholarship. A research or scholarship record includes, but is not limited to, grant or contract applications, whether funded or non-funded; grant or contract progress and other reports; laboratory notebooks; documents; publications; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.

Respondent means the person against whom an allegation of misconduct in research or scholarship is directed or the person whose actions are the subject of an inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

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III. RIGHTS AND RESPONSIBILITIES

A. Vice President for Research

The Vice President for Research will receive any written or oral allegations made by the Complainant and all draft and final reports issued by the Inquiry or Investigation Panels. The Vice President for Research will consult with the appropriate Dean or Director to determine whether to initially convene an Inquiry Panel and shall appoint members to serve on a panel if necessary. After receiving the report of an Inquiry Panel, the Vice President for Research will decide if an Investigation Panel should be appointed.

B. Provost

The Provost will appoint the Investigation Panel and, based on the outcome of the investigation, make the final determination on allegations of misconduct in research or scholarship. The Provost will determine whether or not to impose sanctions or whether to take other appropriate administrative actions.

C. Research/Scholarship Integrity Officer (RSIO)

The University Research Compliance Officer will serve as the Research/Scholarship Integrity Officer who will have primary responsibility for implementation of the procedures set forth in this document. Should the position of University Research Compliance Officer be vacant at the time of an allegation, an acting Research/Scholarship Integrity Officer shall be appointed. Neither the Vice President for Research nor the Provost may serve as Research/Scholarship Integrity Officer.

The RSIO will assist the Inquiry and Investigation Panels and all institutional personnel in complying with these procedures and with applicable standards imposed by the University, the government or external funding sources. The RSIO is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files. The RSIO will report to the Vice President for Research or the Provost the status of an inquiry or investigation. He/she will also report, if applicable, to ORI or other federal agencies, as appropriate, and in accordance with applicable federal regulations and keep ORI or other federal agencies, if applicable, apprised of any developments during the course of the inquiry or investigation that may affect current or potential funding or other federal funding for the individual(s) under investigation or that is needed to know to ensure appropriate use of federal funds and otherwise protect the public interest. The RSIO will work with the Vice President for Research to ensure that confidentiality is maintained to the extent possible under the circumstances of each inquiry or investigation.

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D. Complainant

The Complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation. The Complainant will have an opportunity to testify before the Investigation Panel, to be protected from retaliation, and to be informed of the outcome of the investigation. Also, if the RSIO has determined that the Complainant may be able to provide additional pertinent information on any portions of the draft report; these portions may be given to the Complainant for comment.

E. Respondent

The Respondent will be informed of the allegations when an inquiry or investigation is opened and notified in writing of the final determinations and resulting actions. The Respondent will also have the opportunity to be interviewed by and present evidence to the Investigation Panel, to review the draft inquiry and investigation reports and submit written comments during the designated time period. Any comments will be attached to the respective reports.

The Respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry or investigation. If the Respondent is found not to have committed misconduct in research or scholarship, the Respondent has the right to receive reasonable institutional assistance, in restoring his or her professional reputation.

IV. GENERAL POLICIES AND PRINCIPLES

A. Responsibility to Report Misconduct in Research or Scholarship

All employees or individuals associated with the University should initially report in writing or orally observed, suspected, or apparent misconduct in research or scholarship to the RSIO or Vice President for Research, in accordance with this policy. If an inquiry or investigation is warranted, the allegations by the Complainant shall be made in writing.

If an individual is unsure whether an incident falls within the definition of misconduct in research or scholarship, he/she may contact the Vice President for Research or RSIO to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of misconduct in research or scholarship, the Vice President for Research or RSIO may refer the individual or allegation to other offices or officials with responsibility for resolving the problem. At any time, an employee may have discussions and consultations about concerns of possible misconduct with a Department Chair, Unit Head, Dean, RSIO, Vice President for Research or the Provost and will be counseled about appropriate procedures for reporting allegations. All

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university officials are under a duty to report alleged misconduct to the Vice President for Research and to maintain confidentiality.

B. Evidentiary Standards

The following evidentiary standards apply to findings made under this policy:

- Misconduct in research or scholarship shall be proven by a preponderance of the evidence.
- UA has the burden of proof for making a finding of research or scholarship misconduct. The destruction, absence of, or Respondent's failure to provide research or scholarship records adequately documenting the questioned research or scholarship is evidence of misconduct in research or scholarship when UA establishes by the preponderance of the evidence that: 1) the Respondent intentionally, knowingly, or recklessly had research or scholarship records and destroyed them; or 2) the Respondent had the opportunity to maintain the records but did not do so; or 3) the Respondent maintained the records and failed to produce them in a timely manner; and 4) the Respondent's conduct constitutes a significant departure from accepted practices of the relevant research community.
- The Respondent has the burden of going forward with and the burden of proving, by a preponderance of the evidence, any and all affirmative defenses raised. In determining whether UA has carried the burden of proof imposed by this policy, the panels shall give due consideration to admissible, credible evidence of honest error or difference of opinion presented by the Respondent.
- The Respondent has the burden of going forward with and proving by a preponderance of the evidence any mitigating factors that are relevant to a decision to impose administrative actions following a misconduct proceeding.

C. Protecting the Complainant, Witnesses, and Panel Members

Individuals who bring allegations of misconduct and those who participate in inquiries or investigations as witnesses or panel members will not be retaliated against in the terms and conditions of their employment or other status at the institution. The Vice President for Research will review instances of alleged retaliation for appropriate action. Employees should immediately report any alleged or apparent retaliation to the Vice President for Research.

UA will protect the privacy of those who report misconduct in good faith to the extent possible under the circumstances of each inquiry or investigation. For example, if the Complainant requests anonymity, UA will make an effort to honor the request during the allegation assessment or inquiry within applicable policies and regulations and state and local laws, if any. The Complainant will be advised that if the matter is referred to an Inquiry Panel or Investigation Panel and the Complainant's testimony is required,

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anonymity may no longer be guaranteed. The University will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

If a Complainant chooses to bring legal counsel to an interview or meeting on the case he/she must provide the RSIO with a minimum of five (5) working days notice so that the University's counsel may also be present. Legal counsel may not examine witnesses or otherwise participate in the inquiry or investigation fact-finding process.

D. Protecting the Respondent

Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the Respondent(s) in the inquiry or investigation and confidentiality to the extent possible without compromising public health and safety or a thorough inquiry or investigation. The Respondent may continue his/her research activities throughout the inquiry and investigation phases, except in those cases where federal or other governmental policies prevent continuation.

A Respondent may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the counsel or personal adviser to interviews or meetings on the case. Legal counsel may not examine witnesses or otherwise participate in the inquiry or investigation fact-finding process. If a Respondent chooses to bring legal counsel or a personal advisor to an interview or meeting with the Inquiry or Investigation Panel he/she must provide the RSIO with a minimum of five (5) working days notice so that the University's counsel may be present.

E. Cooperation with Inquiries and Investigations

UA faculty, staff and students will cooperate with the RSIO, Vice President for Research, Provost, and other institutional officials in the review of allegations and the conduct of inquiries and investigations. UA faculty, staff and students have an obligation to provide relevant evidence including documents and other information pertaining to the research or scholarship record relating to the misconduct allegations to the RSIO, Inquiry and Investigation Panels or other institutional officials.

V. ASSESSMENT OF ALLEGATIONS

Upon receiving an allegation of misconduct in research or scholarship, the Vice President for Research will, in consultation with the appropriate Dean or equivalent administrator, immediately assess the allegation and determine whether the allegation falls within the definition of misconduct in research or scholarship and whether it is sufficiently timely, credible, and specific so that potential evidence of misconduct may be identified. An inquiry must be conducted if these criteria are met.

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The assessment period should be brief, preferably concluded within a week. In conducting the assessment, the Vice President for Research and Dean or equivalent administrator need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

VI. CONDUCTING THE INQUIRY

A. Initiation of the Inquiry Process

Following the preliminary assessment, if the Vice President for Research, in consultation with the appropriate Dean or equivalent administrator, determines that the allegation falls within the definition of misconduct in research or scholarship and is sufficiently credible and specific so that potential evidence of misconduct in research or scholarship may be identified, he/she will initiate the inquiry process. In initiating the inquiry, the Vice President for Research should identify as clearly as possible the original allegation and any related issues that should be evaluated.

B. Purpose of the Inquiry Process

The purpose of the inquiry is to make a preliminary evaluation of the available evidence to determine whether there is sufficient evidence of possible misconduct to warrant an Investigation. Such a determination does not require a full review of all relevant evidence. The purpose of the inquiry is not to reach a final conclusion about whether misconduct definitely occurred or who was responsible. The Inquiry Panel will proceed under Section VI.G, Inquiry Process, in this document. The findings of the inquiry must be set forth in an Inquiry Report.

If additional information becomes available that substantially changes the subject matter of the inquiry or would suggest additional respondents, the Inquiry Panel will notify the Vice President for Research, who will determine the appropriate course of action.

C. Appointment of the Inquiry Panel

The Vice President for Research, in consultation with the appropriate Dean or his/her designee and other institutional officials as appropriate, will appoint an Inquiry Panel within fifteen (15) working days of the initiation of the inquiry. The Inquiry Panel should consist of a minimum of three individuals all of whom do not have real or apparent unresolved conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegation(s), to interview the principals

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and key witnesses, and to conduct the inquiry. These individuals may be scientists, subject matter experts, administrators, lawyers, or other qualified persons. At least a majority of the panel members shall be from within the institution. The Vice President for Research will select one member to serve as Chair of the Inquiry Panel. The RSIO shall facilitate the activities of the Inquiry Panel.

D. Notice to Respondent

The Vice President for Research will make a reasonable effort to locate the Respondent using the last addresses reported by the Respondent, personnel and retirement records, and publically-available database records. The Vice President for Research will notify the Respondent by certified mail of the allegations against him/her and the composition of panel membership at least seven (7) working days before the inquiry begins. The Respondent may submit within five (5) working days of transmittal of notification a written objection to the Vice President for Research on bias or conflict of interest of panel composition. The Vice President for Research will determine whether to replace the challenged member with a qualified substitute.

E. Sequestration of the Research Records

At the time of or before beginning an inquiry, the Vice President for Research shall notify the RSIO to take all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research or scholarship 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. However, in the case of accusations involving federal funding, records will be sequestered in accordance with federal agency policies and procedures. The Respondent will be provided with copies of all research records sequestered as part of the process or will be provided with supervised access to sequestered records for which copies cannot be made.

F. Charge to the Inquiry Panel and the First Meeting

The Vice President for Research will prepare a charge for the Inquiry Panel that describes the allegations and any related issues identified during the allegation assessment. The charge will state that the purpose of the inquiry is not to determine whether misconduct definitely occurred or who was responsible but rather to make a preliminary evaluation of the evidence in order to determine whether there is sufficient evidence of possible misconduct to warrant an investigation.

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At the Inquiry Panel's first meeting, the RSIO will review the charge with the panel, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the panel with organizing plans for the inquiry, and answer any questions raised by the panel.

G. Inquiry Process

The Inquiry Panel will examine relevant research and/or scholarship records and related materials. Since the purpose of an inquiry is to conduct an initial review of the evidence to determine whether to conduct an investigation, an inquiry does not require a full review of all the evidence related to the allegation. The Inquiry Panel may interview the Complainant, Respondent, and/or key witnesses, but this is not required as part of the inquiry.

An Inquiry Panel's purpose is to decide if an allegation warrants an investigation. An investigation is warranted if there is:

- A reasonable basis for concluding that the allegation falls within the definition of research or scholarship misconduct; and
- Preliminary information-gathering and preliminary fact-finding from inquiry indicates that the allegation may have substance.

VII. THE INQUIRY REPORT

A. Elements of the Inquiry Report

A written inquiry report must be prepared by the Inquiry Panel that includes, but is not limited to, the following information:

- The name and position of the Respondent;
- A description of the allegations of research or scholarship misconduct;
- A description of federal support (if applicable) including grant numbers, grant applications, contracts, and publications listing federal support;
- The basis for recommending that the alleged actions warrant an investigation or do not warrant an investigation; and,
- Any comments on the report by the respondent or the complainant.

This report shall be prepared by the Inquiry Panel Chair and submitted by the Inquiry Panel Chair to the RSIO who will forward the report to the Vice President for Research.

B. Comments on the Draft Report by the Respondent

The RSIO will provide the Respondent with a copy of the draft inquiry report for comment. Notification for comments will be sent by the RSIO to the Respondent via certified mail using the Respondent's address identified as described in section VI D. If

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the certified mail is returned to the RSIO as undeliverable but was mailed to the address identified as described in section VI D, this will be noted and the process will continue.

C. Confidentiality

In distributing the draft report, the RSIO will inform the Respondent of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RSIO may request the Respondent to sign a confidentiality statement or to come to his/her office to review the report.

D. Receipt of Comments

Within fifteen (15) working days of transmission of the draft report, the Respondent will provide written comments, if any, to the RSIO who will forward them to the Inquiry Panel. Any comments that the Respondent submits on the draft report will become part of the final inquiry report and record. Based on the comments, the Inquiry Panel may revise the report as appropriate.

E. Final Report, Inquiry Decision and Notification

The RSIO will transmit to the Vice President for Research the final report. The Vice President for Research will review the report and make the determination of whether findings from the inquiry provide sufficient evidence of possible misconduct to justify conducting an investigation. The inquiry is formally completed when the Vice President for Research makes this determination, which should be made within five (5) working days of receipt of the report. Any extension of this period will be based on good cause and recorded in the inquiry file.

The Vice President for Research will notify in writing the Respondent, the Complainant, and all appropriate institutional officials of the decision.

F. Time Limit for Completing the Inquiry Report

The Inquiry Panel will normally complete the inquiry and submit its report in writing to the Vice President for Research no more than sixty (60) calendar days following the initiation of the Inquiry Panel, unless the Vice President for Research approves an extension for good cause. If the Vice President for Research approves an extension, the reason for the extension will be entered into the records of the case and the report. The Respondent and Complainant also will be notified of the extension.

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G. Record Retention

All documentation and records of the inquiry must be kept for at least seven (7) years after the termination of the inquiry. This includes documentation and records if the decision is not to investigate. Such documentation and records must be available to ORI, as appropriate, and must be kept sufficiently detailed to permit a later assessment, by ORI or another legal entity, of the reasons why UA chose to conduct or not to conduct an investigation.

VIII. CONDUCTING THE INVESTIGATION

A. Initiation and Purpose of the Investigation

After determination is made that an investigation is warranted, the Provost will initiate the investigation process which must begin within thirty (30) calendar days. The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent. The findings of the investigation will be set forth in a report. A finding of misconduct in research or scholarship requires that:

- There be a significant departure from accepted practices of the relevant research community;
- The misconduct was committed intentionally, or knowingly, or recklessly; and
- The allegation has been proven by a preponderance of the evidence.

B. Appointment of the Investigation Panel

The Provost may appoint the Inquiry Panel as the Investigation Panel or may appoint a new panel for the purpose of conducting the investigation. The Investigation Panel will be appointed and will normally meet within thirty (30) calendar days of the completion of the inquiry. The Investigation Panel should consist of at least three individuals all of whom do not have real or apparent unresolved conflicts of interest and have the necessary expertise to evaluate the evidence and issues related to the allegations, to interview the principals and key witnesses, and to conduct the investigation. Individuals appointed to the Investigation Panel may be scientists, administrators, subject matter experts, lawyers, or other qualified persons. At least a majority of the panel members shall be from within the institution. The Provost will select one member to serve as Chair of the Investigation Panel. The RSIO shall facilitate the activities of the Investigation Panel.

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C. Notice to Respondent

The Provost will notify the Respondent in writing of the allegations and the composition of panel membership. Such notification will be within a reasonable amount of time after determining that an investigation is warranted, but before the investigation begins. The Respondent may submit to the Provost within five (5) working days of transmittal of notification, a written objection to panel appointees on the basis of bias or conflict of interest. The Provost will determine whether to replace the challenged member with a qualified substitute.

D. Sequestration of the Research Records

To the extent that it has not already done so at the allegation or inquiry stages, the RSIO will immediately sequester research and/or scholarship records and evidence needed to conduct the research and/or scholarship 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. Whenever possible, UA must take custody of the records:

- Before or at the time it notifies the Respondent; and,
- Whenever additional items become known or relevant to the investigation.

The Respondent will be provided with copies of all research records sequestered as part of the process or will be provided with supervised access to sequestered records for which copies cannot be made.

E. Charge to the Panel and the First Meeting

The Provost will define the subject matter of the investigation in a written charge to the panel that describes the allegations and related issues identified during the inquiry, defines the misconduct the Respondent is alleged to have committed, and identifies the name of the Respondent. The charge will state that the panel is to evaluate the evidence and testimony of the Respondent, Complainant, and key witnesses to determine whether, based on a preponderance of the evidence, misconduct in research or scholarship occurred and, if so, to what extent, who was responsible, and its seriousness. The charge of the Investigation Panel will also be to recommend, if the Respondent(s) is found to have committed misconduct in research or scholarship, a course of institutional administrative action the University should follow (See Section XI).

At the Investigation Panel's first meeting, the RSIO will review the charge with the panel, discuss the allegations, any related issues, and the appropriate procedures for conducting

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the investigation, assist the panel with organizing plans for the investigation, and answer any questions raised by the panel.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the panel will notify the RSIO, who will consult with the Provost to determine the appropriate course of action.

F. Investigation Process

The investigation will normally involve examination of all documentation including, but not necessarily limited to, relevant research records, computer files, proposals, manuscripts, publications, correspondence, memoranda, and notes of telephone calls. Whenever possible, the panel should interview the Complainant(s), the Respondent(s), and other individuals who might have information regarding aspects of the allegations. All interviews will be transcribed or summarized. Summaries or transcripts of the interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file. The Investigation Panel will evaluate the evidence and testimony of the Respondent, Complainant, and key witnesses to determine whether, based on a preponderance of the evidence, misconduct in research and/or scholarship has occurred and, if so, to what extent, who was responsible, and its seriousness.

The Investigation Panel will use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence to reach a decision on the merits of the allegations. The Investigation Panel will take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practicable and shall pursue diligently all significant issues and leads discovered that are considered relevant to the investigation and continue the investigation to completion.

G. Time

The Panel shall normally complete the investigation within one-hundred twenty (120) calendar days of beginning it, including conducting the investigation, preparing the report of findings and providing the draft report for comment. If the Panel is unable to complete the investigation in 120 days, the Panel chair will ask the Provost for an extension. If the Investigation involves NIH funding, the RSIO will send a request to ORI asking for an extension.

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IX. THE INVESTIGATION REPORT

A. Elements of the Investigation Report

The investigation report must be in writing and include the following:

- A description of the nature of the allegations;
- A description of the specific allegations of misconduct in research or scholarship for consideration in the investigation;
- A description, if federal funds are involved, of the research or scholarship activity under which funding was received, including any grant numbers, grant applications, contracts, and publications listing federal government support. If PHS funding, list any current support or known applications or proposals for support that the respondent has pending with PHS, identify PHS support and non-PHS support
- Identification and summary of the research or scholarship records and evidence reviewed and/or evidence taken into custody but not reviewed.
- A statement of findings that lists each separate allegation of misconduct in research or scholarship identified during the investigation and that provides a finding as to whether misconduct in research or scholarship was falsification, fabrication, or plagiarism and if it was intentional, knowing or in reckless disregard;
- Summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the Respondent;
- Identify whether any publications need correction or retraction;
- Identify the person(s) responsible for the misconduct; and,
- Recommend actions to be taken by the Provost (See Section XI).

B. Comments on the Draft Report

The RSIO will provide the Respondent with a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to, the evidence on which the report is based. Comments of the Respondent on the draft report, if any, must be submitted in writing within thirty (30) working days of the date the draft investigation report was sent by the RSIO via certified mail to the Respondent. If the certified mail is returned to the RSIO as undeliverable but was mailed to the last address known by the University of the Respondent, this will be noted and the process will continue. The Respondent's comments, if any, must be included and considered in the final report.

The RSIO may provide the Complainant with either a copy of the draft investigation report or relevant portions of the report, as determined by the Panel. If the Panel chooses to seek comments of the Complainant on the draft report or relevant portions of it, the Complainant will be asked to submit comments in writing within thirty (30) working days of the date the draft investigation report or relevant portions were sent by the RSIO via

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certified mail to the Complainant. If the certified mail is returned to the RSIO as undeliverable but was mailed to the last address known by the University of the Complainant, this will be noted and the process will continue.

In distributing the draft report or relevant portions to the Respondent or Complainant, the RSIO will inform the recipients of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RSIO may request the recipient to sign a confidentiality statement or to come to his/her office to review the report.

C. Transmittal of the Final Investigation Report

After comments have been received and the necessary changes have been made to the draft report, the Investigation Panel chair will prepare and transmit the final report with attachments, including the Respondent's or if applicable, the Complainant's comments, to the Provost through the RSIO.

D. Acceptance of Final Report

The Provost will make the final determination as whether to accept the investigation report, its findings, and the recommended institutional administrative actions outlined but not limited to Section XI, Institutional Administrative Actions, in this document. If a decision is rendered that is different from that of the Investigation Panel, the Provost will explain in writing the basis for rendering the decision. This explanation will be transmitted to the RSIO, Vice President for Research, Investigation Panel and Respondent. If appropriate, the explanation will be transmitted along with the report to the appropriate federal agency. The Provost's explanation should be consistent with the University's definition of misconduct in research and scholarship, UA's policies and procedures, and the evidence reviewed and analyzed by the Investigation Panel. The Provost may also return the report to the Investigation Panel with a request for further fact-finding or analysis. The Provost's determination, together with the Investigation Panel's report, constitutes the final investigation report.

When a final decision on the case has been reached, the Provost will notify both the Respondent and the Complainant in writing. In addition, the Provost will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The RSIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

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X. SPECIAL REQUIREMENTS FOR REPORTING TO THE FEDERAL GOVERNMENT

A. Reporting Requirements

Federal Policy on Research Misconduct issued by the U.S. Department of Health and Human Services, 42 CFR Parts 50 and 93, Public Health Service Policies on Research Misconduct; Final Rules, May 17, 2005 requires that federal agencies and research institutions share responsibility for the research process and work together in identifying and reporting research misconduct related to PHS grants and contracts.

It is in cooperation with federal policy that UA implements the following requirements when federal funds are involved in the misconduct inquiry or investigation.

If U.S Public Health Service (PHS) funding is involved, UA will follow the U.S. Department of Health and Human Services, 42 CFR Parts 50 and 93, Public Health Service Policies on Research Misconduct; Final Rules, May 17, 2005. UA's decision to initiate an investigation must be reported in writing to the Director of ORI, on or before the date the investigation begins. At a minimum, the notification should include the name of the person(s) against whom the allegations have been made, the general nature of the allegation as it relates to the PHS definition of scientific misconduct, and the PHS applications or grant number(s) involved.

ORI must also be notified of the final outcome of the investigation and must be provided with the following:

- A copy of the investigation report including all attachments and any appeals;
- Information concerning the final institutional action including whether UA found misconduct and if so, who committed the misconduct;
- A statement of whether UA accepts the finding of the Investigation Panel; ~~and~~
- Institutional administrative actions which describe any pending or completed administrative actions against the Respondent; and
- Any significant variations from the provisions of the institutional policies and procedures should be explained in any reports submitted to ORI.

If federal agencies are involved that do not follow ORI policy and procedures, the misconduct will be reported in accordance with the sponsoring agency printed policies and procedures. If required by a federal agency, the RSIO shall notify a federal agency of the results of inquiries or investigations.

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B. Termination and Extension of PHS related Inquiry or Investigation

If UA plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of the PHS regulations, the RSIO will submit a report of the planned termination to ORI, including a description of the reasons for the proposed termination.

If the institution determines that it will not be able to complete the investigation within one-hundred twenty (120) calendar days, the RSIO will submit to ORI a written request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken. If the request is granted, the RSIO will file periodic progress reports as requested by the ORI.

C. Working with ORI

When PHS funding or applications for funding are involved and an admission of misconduct in research is made, the RSIO will contact ORI for consultation and advice. Normally, the individual making the admission will be asked to sign a statement attesting to the occurrence and extent of misconduct. When the case involves PHS funds, the institution cannot accept an admission of scientific misconduct as a basis for closing a case or not undertaking an investigation without prior approval from ORI.

The RSIO will notify ORI at any stage of the inquiry or investigation if:

- the health or safety of the public is at risk including an immediate need to protect animal or human subjects;
- there is an immediate need to protect Federal resources or interests;
- research activities should be suspended;
- federal action is needed to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any and others involved in the misconduct proceedings;
- it is probable that the alleged incident is going to be reported publicly; or
- there is a reasonable indication of possible violations of civil or criminal law. In this instance, the institution must inform ORI within 24 hours of obtaining that information.

XI. INSTITUTIONAL ADMINISTRATIVE ACTIONS

UA will take appropriate administrative actions against individuals when an allegation of misconduct in research or scholarship has been substantiated. If the Provost determines that the alleged misconduct is substantiated by the findings, he/she will decide the appropriate actions to be taken. The actions may include but are not limited to the following:

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- withdrawal or correction of all pending or published abstracts and papers emanating from the research or scholarship where misconduct was found;
- removal of the responsible person from the particular project;
- letter of reprimand;
- probation;
- suspension;
- salary reduction;
- initiation of steps leading to possible rank reduction;
- termination of employment; and/or
- restitution of funds as appropriate.

XII. OTHER CONSIDERATIONS

A. Termination of Institutional Employment 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 misconduct in research or scholarship has been reported, will not preclude or terminate the misconduct inquiry or investigation.

If the Respondent, without admitting to the misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after an allegation has been reported, or during an inquiry or investigation, the inquiry or investigation will proceed. If the Respondent refuses to participate in the process after resignation, the panel will use its best efforts to reach a conclusion concerning the allegations, noting in its report the Respondent's failure to cooperate and its effect on the panel's review of all the evidence.

B. Restoration of the Respondent's Reputation

If UA finds no misconduct has occurred, the Vice President for Research will undertake, after consulting with the Respondent, reasonable efforts to restore the Respondent's reputation. If the case involves PHS funding ORI must concur with UA that no misconduct has occurred before reasonable efforts to restore the Respondent's reputation can take place. Depending on the particular circumstances, the Vice President for Research may notify those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of misconduct was previously publicized, or removing all reference to the misconduct allegation from the Respondent's personnel file. Any institutional actions to restore the Respondent's reputation must first be approved by the Provost.

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C. Protection of the Complainant, Witnesses, and Panel Members

The Vice President for Research will undertake reasonable efforts to protect the positions and reputations of good faith Complainants, witnesses, and panel members and protect them from retaliation. Upon completion of an investigation, the Provost will determine what steps, if any, are needed to restore the position or reputation of the Complainant, witnesses, and panel members. The Vice President for Research is responsible for implementing any steps the Provost approves. The Vice President for Research will also take appropriate steps during the inquiry and the Provost during the investigation to prevent any retaliation against the Complainant, witnesses, and panel members.

D. Allegations Not Made in Good Faith

Based on the reports of the inquiry and/or investigative panels, the Provost will determine whether the Complainant's allegations of misconduct in research or scholarship were made in good faith. If an allegation was not made in good faith, the Provost will determine the institutional administrative action(s) to be taken against the Complainant. Possible administrative actions that may be taken against a Complainant shown not to have acted in good faith include:

- letter of reprimand;
- probation;
- suspension;
- salary reduction;
- initiation of steps leading to possible rank reduction; and/or
- termination of employment.

XIII. RECORD RETENTION

After completion of the inquiry or investigation and all ensuing related actions, the RSIO will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the RSIO or panels. Research and scholarship misconduct records will be kept in a secure manner for seven (7) years after completion of the proceeding or if PHS funding is involved, seven (7) years after completion of the proceeding or the completion of any PHS proceeding involving the research misconduct allegation, whichever is later.