



## **Interim University of Maryland Policy and Procedures Concerning Research Misconduct**

**PRESENTED BY** Jack Blanchard, Chair

**REVIEW DATES** SEC – February 26, 2019 | SENATE – March 6, 2019

**VOTING METHOD** In a single vote

**RELEVANT POLICY/DOCUMENT** [III-1.10\(A\) – University of Maryland Policy and Procedures Concerning Research Misconduct](#)

**NECESSARY APPROVALS** Senate, President

### **ISSUE**

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An interim version of the University of Maryland Policy and Procedures Concerning Research Misconduct was adopted in June 2017, following revisions to align them with changes in federal regulations. These regulations establish expectations and standards that should be used in all investigations into research misconduct involving federal grant money. In January 2018, the Senate Executive Committee (SEC) charged the Faculty Affairs Committee (FAC) with reviewing the interim policy and procedures; reviewing policies as well as structural and procedural elements at Big 10 and peer institutions; consulting with a range of offices and stakeholders on campus; and recommending any proposed changes to the policy.

### **RECOMMENDATIONS**

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The Faculty Affairs Committee recommends that the University of Maryland Policy and Procedures Concerning Research Misconduct be revised as indicated in the policy document immediately following this report.

The Faculty Affairs Committee recommends that the University of Maryland Policy on Suspension of Faculty be revised as indicated in the policy document immediately following this report.

The Faculty Affairs Committee recommends that the following administrative recommendations be approved:

- The University should conduct a review of the implementation of the proposed University of Maryland Policy and Procedures Concerning Scholarly Misconduct and report its findings to the University Senate in Fall 2022.
- The University should carefully review and determine what resources are required for the execution of the procedures outlined in the revised Scholarly Misconduct policy, and based on this review, provide the necessary resources to support the process.

- The University should consider whether policy should be developed to address other types of misconduct related to scholarship and research activities not covered by this policy or other existing policies such as falsification of credentials, adhering to lab safety and other protocols, and misappropriation of materials for instructional purposes.
- The University should enhance and expand training and/or informational resources on ethical and responsible research expectations, conduct, and practices for all members of the campus community involved in scholarly activities.
- The University should conduct a comprehensive review of the University of Maryland Policy on Suspension of Faculty and develop termination procedures that align with provisions in the University System of Maryland Appointment, Rank, and Tenure of Faculty and the University of Maryland Policy & Procedures on Appointment, Promotion, and Tenure of Faculty as well as other relevant faculty policies.

## **COMMITTEE WORK**

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To review the interim policy, the FAC formed a Research Misconduct Working Group (WG), which included representatives from the committee, the Research Council, and the Office of the Vice President for Research. The WG met frequently throughout the spring semester of 2018, working to identify and resolve issues in the interim policy and procedures. This process involved close consultation with representatives of the Office of Faculty Affairs and the Office of General Counsel, as well as research into similar policies at Big 10 and peer institutions. The WG reported to the full FAC in October 2018. The FAC provided an update to the Senate in November 2018 and collected input on its preliminary directions for policy revisions, based on the WG report.

Over the course of several meetings, the FAC reviewed and refined the WG's recommended revisions. The committee found that procedures in the University of Maryland Policy on Suspension of Faculty did not align with the newly revised research misconduct policy; the committee identified minimal revisions to the Policy on Suspension of Faculty necessary to ensure alignment and determined that a more comprehensive review was warranted. The committee discussed the role of the Provost in the interim procedures and made additional revisions to the policy to separate roles associated with investigations from final determinations and sanctioning. The committee also developed several administrative recommendations.

The FAC voted to approve the revised policy and recommendations in an email vote concluding on February 18, 2019.

## **ALTERNATIVES**

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The Senate could choose not to approve the revisions to the Policy and Procedures Concerning Research Misconduct. However, the University would lose the opportunity to clarify the procedures, roles, and responsibilities related to research misconduct.

## **RISKS**

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There are no known risks to the University.

## **FINANCIAL IMPLICATIONS**

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There are no known financial implications.



## Interim University of Maryland Policy and Procedures Concerning Research Misconduct

### 2018-2019 Committee Members

<b>Jack Blanchard</b> (Chair)	<b>Paula Nasta</b> (Graduate Student)
<b>John Bertot</b> (Ex-Officio Provost's Rep)	<b>Janice Reutt-Robey</b> (Faculty)
<b>Debabrata Biswas</b> (Faculty)	<b>Ellin Scholnick</b> (Ex-Officio Ombuds Officer)
<b>Caroline Boules</b> (Faculty)	<b>Elina Thapa</b> (Graduate Student)
<b>Karol Dyson</b> (Faculty)	<b>Jewel Washington</b> (Ex-Officio Director of Human Resources Rep)
<b>Michele Eastman</b> (Ex-Officio President's Rep)	<b>Ann Weeks</b> (Faculty)
<b>Philip Evers</b> (Ex-Officio CUSF Rep)	<b>Sacoby Wilson</b> (Faculty)
<b>Mark Fuge</b> (Faculty)	
<b>Yaelle Goldschlag</b> (Undergraduate Student)	
<b>Richard Klank</b> (Faculty)	
<b>Nicole LaRonde</b> (Faculty)	
<b>Shevaun Lewis</b> (Faculty)	
<b>Alexis Monahan</b> (Staff)	

### Date of Submission

February 2019

## BACKGROUND

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An interim version of the University of Maryland Policy and Procedures Concerning Research Misconduct (Appendix 2) was adopted in June 2017, following revisions to bring it into alignment with regulations from the Health and Human Services Office of Research Integrity (ORI) and the Public Health Service (PHS). ORI and PHS have established expectations and standards that should be used in all investigations into research misconduct involving federally-funded research. The federal government is interested in addressing the misconduct and correcting the research record; these interests must be balanced with institutional interests and those of the individual(s) involved in a research misconduct allegation. The interim policy was crafted to meet ORI's expectations while working within the flexibility ORI permits on many aspects of the procedures themselves. The interim policy also allows interim actions to be taken during an investigation, as needed.

In January 2018, the Senate Executive Committee (SEC) charged the Faculty Affairs Committee (FAC) with reviewing the interim University of Maryland Policy and Procedures Concerning Research Misconduct; reviewing policies as well as structural and procedural elements at Big 10 and peer institutions; consulting with a range of offices and stakeholders on campus; and recommending any proposed changes to the policy. (Appendix 6)

## COMMITTEE WORK

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The FAC formed a Research Misconduct Working Group (WG), which included representatives from the FAC, the Research Council, and the Office of the Vice President for Research, to review the interim policy. The WG met frequently throughout the spring semester of 2018, working to identify and resolve issues in the interim policy and procedures. This process involved working closely with representatives of the Office of Faculty Affairs and the Office of General Counsel, consulting with the Research Council and the Vice President for Research and conducting peer

institution research. The WG reported to the full committee in October 2018. The FAC provided an update to the Senate in November 2018 and collected input on its preliminary directions for policy revisions, based on the WG report.

Over the course of several meetings, the FAC reviewed the WG's recommended revisions. It added provisions intended to strengthen due process protections, clarify definitions, and ensure the University can take interim actions without unnecessarily disrupting ongoing research activities. The committee also noted that procedures in the University of Maryland Policy on Suspension of Faculty did not align with the newly revised misconduct policy; the committee identified minimal revisions to this policy that are necessary to ensure alignment and determined that a more comprehensive review was warranted. The committee also discussed the role of the Provost in the interim procedures and made additional revisions to the policy to separate roles responsible for procedural elements from decision-making and sanctioning elements. The committee also consulted with the Research Council (Appendix 5) and the Office of General Counsel before finalizing its recommendations.

The FAC voted to approve the revised policy and recommendations in an email vote concluding on February 18, 2019.

## OVERVIEW OF REVISIONS

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The FAC incorporated revisions to the policy related to its scope and types of misconduct, definitions, due process rights for Respondents, oversight of the process, and clarifications of roles and responsibilities. In addition, the committee made associated changes to the University of Maryland Policy on Suspension of Faculty.

### ***Scope of the Policy and Types of Misconduct***

The policy was renamed and reframed to address "Scholarly Misconduct," which includes both research misconduct and misconduct related to creative activities. This change protects ORI's interest in focusing on research that is funded by federal grant money, while also allowing the policy to address research misconduct for non-federally funded projects. The policy applies to all members of the University community - students, staff, faculty, and administrators - and all scholarly work, including research and creative activity.

The revised policy intentionally does not cover actions that would be considered instructional misconduct (e.g., using another person's course materials without permission/attribution) or professional misconduct (e.g., misrepresentation of one's credentials for professional advancement), or misconduct by an individual acting as an administrator. Separate University policies or procedures should be used or developed to address these types of misconduct.

### ***Definitions***

The revised policy ensures that definitions are clear and accessible to faculty who may be involved in this process. This involves adding details where appropriate or revising definitions to more accurately reflect the types of misconduct that may occur on our campus; adding or significantly revising definitions for Fabrication, Falsification, and Improprieties of Authorship; and adding a definition for Self-Plagiarism that recognizes accepted standards in some disciplines. This includes clarifying that:

- Fabrication involves intentionally generating data or results that are fictitious and reporting them as genuine.

- Falsification involves manipulation or omission of data or results in a way that deviates from accepted practices within the field, so that information is purposely misrepresented in the research record.
- Improprieties of Authorship requires an understanding of the accepted standards in the relevant discipline, as some exclusion or inclusion of authors may be established convention.
- Self-Plagiarism, when not in accordance with the accepted standards in the relevant discipline, can constitute misconduct under this policy.

### ***Due Process Rights for Respondents***

The revised policy ensures appropriate due process rights for the Respondent. The policy clarifies the parties' rights to challenge the appointment of specific members of committees and permits the Research Integrity Officer (referred to as the RIO) to remove a committee member if a conflict of interest emerges during the proceedings. The revised policy also includes language that ensures that the Respondent has an opportunity to provide written responses to the allegation and reports for consideration during the inquiry and investigation processes. The parties may review all evidence and supply corrections, or additional supporting documentation as needed in response to the evidence submitted by others. The revised policy also addresses the institution's role in restoring a Respondent's reputation if there is no finding of misconduct.

### ***Oversight of the Process***

The interim policy clearly indicates the role of the Research Integrity Officer (RIO) throughout the misconduct process and indicates that the RIO is appointed by the Provost. In current practice, the RIO is the Associate Provost for Faculty Affairs. The FAC discussed the administrative burden and expertise involved in managing the research misconduct process. The FAC recognized that the administrative responsibility for the process may shift in the future. The revised policy includes language that is broad enough to accommodate changes in practice and structure that may be necessary in the future given the administrative burden of managing this process.

### ***Clarifications of Processes and Roles***

The policy was revised to ensure that it is clear and consistent, which in some instances involved adding information to explain what it means, in practice. The revised policy also clarifies roles and responsibilities, including the role of the Provost in all stages of the process. In order to limit the Provost's role to the decision-making phases, the FAC created an intermediary role, the Designated Officer (DO), to administer the procedural processes. The DO is identified by the Provost and is responsible for appointing the RIO and overseeing the inquiry and investigation stages, but the Provost maintains authority over the decision-making and sanctioning processes. The revised policy incorporates a structure that is flexible enough to accommodate appointments to these roles that may evolve in the future. The revised policy also clarifies that the role of legal counsel is limited to advising Respondents and Complainants and specifies that they are not active participants that speak on behalf of the parties during the proceedings, which is consistent with other University policies. In addition, the revised policy clarifies and adjusts timelines for various stages and actions within the procedures, clarifies procedures for cases involving additional Respondents, and clarifies details regarding the appointment of the RIO and the DO.

### ***Associated Revisions to the Suspension Policy***

The University of Maryland Policy on Suspension of Faculty was revised to align with the proposed revisions in the Scholarly Misconduct policy and with principles defined in other University policies. The revisions eliminate the section that is specific to research misconduct so that the policy applies to a broad range of misconduct. In addition, the general information section of the policy was

streamlined to align with the University System Policy on Appointment, Rank, and Tenure of Faculty (II-1.00). Revisions were also made to formalize the faculty member's response in writing instead of providing an opportunity for a meeting with the Provost. This change maintains the Provost's role in making the final decision and the faculty member's opportunity to respond. Additional revisions were made to align the role of an advocate or attorney as an advisor similar to how this role is defined in other University policies.

## PEER RESEARCH

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Research misconduct policies at Big 10 and peer institutions are generally similar in their definitions and provisions, given all are aligned with ORI's regulations (Appendix 3). The majority of our peers allow for interim actions to be taken while an inquiry or investigation is ongoing, and most allow Respondents to respond to reports and actions at various stages throughout the process. Thirteen of our peers also allow Respondents to challenge members of inquiry and/or investigative committees. Twelve explicitly allow for advisors to assist Respondents; eight explicitly prohibit advisors from actively participating in proceedings.

At many peer institutions, the RIO is a staff member or administrator within the Division of Research or leads a Research Compliance Office that handles issues related to research misconduct as well as other compliance issues. At most institutions, the RIO is appointed by and reports to the Vice President for Research or equivalent. Approximately half of our peers give the Provost a role in imposing sanctions when there is a finding of misconduct.

In general, the revised policy broadly aligns with similar policies at other institutions. The only substantive area of difference involves the concept of "self-plagiarism," which is not included in any other institution's definition of misconduct. One policy explicitly indicates that self-plagiarism is not considered misconduct.

## RECOMMENDATIONS

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The Faculty Affairs Committee recommends that the University of Maryland Policy and Procedures Concerning Research Misconduct be revised as indicated in the policy document immediately following this report.

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- The University should enhance and expand training and/or informational resources on ethical and responsible research expectations, conduct, and practices for all members of the campus community involved in scholarly activities.
- The University should conduct a comprehensive review of the University of Maryland Policy on Suspension of Faculty and develop termination procedures that align with provisions in the University System of Maryland Appointment, Rank, and Tenure of Faculty and the University of Maryland Policy & Procedures on Appointment, Promotion, and Tenure of Faculty as well as other relevant faculty policies.

## **APPENDICES**

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- Appendix 2 — Interim University of Maryland Policy and Procedures Concerning Research Misconduct
- Appendix 3 — Research on Policies at Big 10 and Peer Institutions
- Appendix 4 — Diagram of Scholarly Misconduct Process
- Appendix 5 — Memo from Research Council (February 15, 2019)
- Appendix 6 — Charge from the Senate Executive Committee



Proposed Revisions from the Faculty Affairs Committee  
 New Text in Blue/Bold (**example**), Removed Text in Red/Strikeout (~~example~~)  
 Moved Text in Green/Bold (**example/example**)



**III-1.10(A) UNIVERSITY OF MARYLAND POLICY AND PROCEDURES  
 CONCERNING ~~RESEARCH~~ SCHOLARLY MISCONDUCT**

(Approved by the President August 1, 1991; Revised May 11, 2000; Revised May 13, 2008; Technical Amendment April 6, 2009; Approved on an Interim basis June 29, 2017)

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## INTRODUCTION

**Scholarly** integrity ~~in research~~ is the responsibility of the entire academic community. All members of the university community—students, staff, faculty and administrators—share responsibility for developing and maintaining standards to ~~assure~~ **promote** honesty, accuracy, and objectivity in ~~scientific and~~ scholarly work and ~~other creative activities and detection of~~ **for reporting** abuse of these standards. Misconduct in carrying out academic activities undermines the integrity of the educational system and the ~~scientific~~ **scholarly** enterprise, and erodes the public trust in the university community ~~to conduct research and communicate results using the highest standards and ethical practices~~. The responsibility to prevent and ~~detect~~ **report** misconduct, however, ~~ought not~~ **must be assumed without** creating an atmosphere that discourages the openness and creativity ~~which~~ **that** are vital to scholarship ~~and the research enterprise~~.

Institutions that apply for or receive federal funds for research are required by law to share responsibility for the integrity of the research process (e.g., Public Health Service Policies on Research Misconduct, 42 CFR Part 93). The University of Maryland, ~~College Park~~ (University) voluntarily applies the common federal standards for integrity in research to all University ~~research~~ **scholarship** regardless of funding source. Both the University and its personnel have a duty to ensure the integrity of research and research training by assuming primary responsibility for responding to allegations of ~~Research~~ **Scholarly** ~~m~~ Misconduct.

## APPLICABILITY

This policy applies to ~~all scientific and~~ scholarly work, **which includes research** and other creative activity, research training, applications and proposals, and related activity containing a research component, performed at the University by any person, including faculty, staff, students, visitors and others; or performed with the use of University resources; or performed elsewhere, by a person acting under the auspices of the University. ~~This policy does not supersede other University System of Maryland or University policies and procedures, such as suspected fiscal irregularity, conflict of interest, and unethical conduct of research involving human or animal subjects. All other instances of research misconduct, whether the research is sponsored or not, will follow these policies and procedures. Allegations of misconduct by students in academic exercises, such as examinations and course requirements, are generally handled pursuant to the University's Code of Academic Integrity.~~

**This policy does not apply to various types of professional and/or instructional misconduct, including misconduct related to the individual's role as an instructor or administrator, or misrepresentations for personal or professional advancement. These types of misconduct may be addressed in separate University or University System of Maryland processes or policies.**

**Allegations of Scholarly Misconduct, whether the scholarly work is sponsored or not, will be reviewed using this policy, subject to the limitations below:**

- A. This policy does not supersede other University System of Maryland or University policies and procedures, such as those addressing authorship disputes, suspected fiscal irregularity, conflict of interest, and unethical conduct of research involving**

**human or animal subjects. Should violations of other University policies be found during the review of a Scholarly Misconduct Allegation, the Research Integrity Officer (RIO) will make referrals to the appropriate office or officer and work to coordinate any concurrent or successive investigations.**

- B. If an Allegation of Scholarly Misconduct involves a student, the RIO, in consultation with the Director of Student Conduct will determine whether this policy, the *Code of Academic Integrity*, or the *Code of Student Conduct* will apply. Allegations of misconduct by students in academic exercises, such as examinations and course requirements, are generally handled pursuant to the University's *Code of Academic Integrity*.**
- C. All other instances of research misconduct, whether the research is sponsored or not, will follow these policies.**

## **POLICY**

It is the policy of the University:

- A. To maintain high standards of honesty, accuracy, and objectivity in ~~science and other~~ scholarly ~~and creative~~ works, to prevent ~~research~~ Scholarly Misconduct where possible, and to evaluate and to resolve promptly and fairly instances of alleged or apparent ~~Research~~ Scholarly Misconduct.**
- B. To take appropriate remedial and disciplinary action in response to findings of ~~Research~~ Scholarly Misconduct, ~~which may include termination of enrollment or employment of an individual responsible for Research Misconduct.~~**
- ~~C. To award no degree if Research Misconduct contributed to that degree, and when warranted, to revoke such a degree if Research Misconduct is discovered after its award.~~

## **I. DEFINITIONS**

**“Abuse of Confidentiality/Misappropriation of Ideas”** means the improper use or appropriation of information obtained from scholarly exchanges and other types of confidential access, such as **from** review of grant applications or manuscripts; ~~and~~ service on peer review panels, editorial boards, or University committees; **and information obtained from publishers, foundations, and organizations that run conferences or engage in other scholarly activities.**

**“Allegation”** means a disclosure of possible **Scholarly** Misconduct by a Respondent to the RIO by any means of communication. An ~~a~~ Allegation should include sufficient detail, and supporting evidence, if available, to permit a ~~p~~ Preliminary ~~a~~ Assessment by the RIO under this ~~P~~ policy ~~and Procedure~~.

**“Bad Faith”** means a material and demonstrable failure to meet the standards for Good Faith set forth herein as a Complainant, a witness, an Inquiry Committee member, an Investigation Committee member, the Responsible Administrator, **the Designated Officer**, 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”** means a person who makes an Allegation. A Complainant need not be **affiliated with** ~~a member of~~ the University ~~community~~.

**“Complaint”** means a formal, written communication to the RIO ~~which that~~ contains ~~an a~~ Allegations of ~~research~~ **Scholarly m** Misconduct.

**“Conflict of Interest”** means any personal, professional, or financial relationship that influences or reasonably would be perceived to influence the impartial performance of a duty assigned under ~~these Procedures~~ **this policy**.

**“Counsel”** means lay or legal counsel secured by a Complainant or Respondent to serve as an advisor during the Misconduct Proceedings, at the party’s own **initiation and** expense. **Counsel may provide advice and consultation to the party. If necessary, a party may request a recess during the proceedings in order to speak privately with Counsel. Counsel may not be an active participant; Counsel may not speak for the parties in person or in writing, serve as a witness, provide information or documentation in the case, cause delay, communicate on behalf of the party, or otherwise interfere with the process.**

**“Creative Activities”** means the preparation or creation of computer programs, websites, motion pictures, sound recordings, **projects for competitions**, and literary, pictorial, musical, dramatic, audiovisual, choreographic, sculptural, architectural, and graphic works of any kind by (1) a faculty member or other employee of the University as part of ~~her or his~~ **their** 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~~ **but not** limited to, a master’s or doctoral thesis).

**“Deliberate Material Failure to Comply with Federal, State, or University Requirements Affecting Research”** means violations involving the use of funds or resources; **data management**; care of animals; human subjects; investigational drugs; recombinant products; new devices; radioactive, biologic or chemical materials; or the health and safety of individuals or the environment.

**“Deliberate Misrepresentation of Qualifications”** means misrepresentation of experience or research accomplishments to advance a research program; **or** to obtain external funding ~~or for other professional or personal advancement~~.

**“Designated Officer”** means a **University official responsible for implementing and overseeing this policy consistent with applicable laws. The Senior Vice President and Provost shall appoint the Designated Officer.**

**“Evidence”** means any document, tangible item, or testimony that is received, or that may be offered, ~~as evidence~~ during a Misconduct Proceeding to prove or disprove the existence of a fact relevant to the Allegation at issue in that Misconduct Proceeding.

~~This~~ **Depending on the Allegation, Evidence** could include, ~~depending on the Allegation but is not limited to,~~ **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 **and electronic communications**; ~~or~~
- manuscripts, posters, publications, and recordings of oral presentations and interviews.

**“Fabrication”** means ~~making up Research data or results and recording or reporting them~~ **intentionally generating Research data or results that are fictitious in some regard, and recording or reporting these data or results as being genuine.**

**“Falsification”** means manipulating Research materials, equipment, or processes, or changing or omitting Research data or results **in a way that deviates from common practice in the field**, such that Research **purposely** is not accurately represented in the Research Record.

**“Good Faith”** means having a belief in the truth of one’s Allegation or testimony that a reasonable person in the individual’s position could have based on the information known to the individual at the time. An Allegation or cooperation with a Misconduct Proceeding is not in Good Faith if made or done with a knowing or reckless disregard for information that would negate the Allegation or testimony.

**“Improprieties of Authorship”** means the improper assignment of credit **that is not in accordance with accepted standards in the relevant discipline**, such as ~~excluding or insufficiently citing others; misrepresentation of the same materials as original in more than one publication;~~ inclusion of individuals as authors who have not made a **substantial** contribution to the published work; **exclusion of individuals as authors who have made a substantial contribution to the published work**, or submission of multi-authored publications without the concurrence of all authors.

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

**“Inquiry Committee”** means a group of at least three persons appointed by the RIO to conduct an Inquiry.

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

**“Investigation Committee”** means a group of at least three persons appointed by the



~~Senior Vice President and Provost~~ RIO to conduct an Investigation.

**“Misappropriation of Funds or Resources”** means the misuse of funds or resources ~~for personal gain~~ **intended to support research activities identified in the context of a Scholarly Misconduct investigation.**

**“Misconduct Proceeding”** means any proceeding under ~~these Procedures~~ **this policy** related to the review of an Allegation **of Scholarly Misconduct**, including Preliminary Assessments, Inquiries, Investigations, and internal appeals.

**“Misconduct Proceeding Records”** means: (1) ~~E~~**e**vidence 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 and final (not draft) documents produced in the course of preparing that report, including any other documentation of a decision that an Investigation is not warranted; (5) the Investigation report and all records (other than drafts of the Investigation report) in support of that report, including the transcripts of each interview or hearing conducted during an Investigation; and (6) the complete record of an internal appeal (see Section IX below) from a finding of **Scholarly** Misconduct.

**“Plagiarism”** means the ~~appropriation~~ **representation** of another person’s ideas, processes, results, ~~or~~ words, **images, or other creative works as one’s own** without giving appropriate credit.

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

**“Preponderance of the Evidence”** ~~means proof by Evidence that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not~~ **that based on the totality of the Evidence, it is more likely than not that a violation of this policy occurred.**

**“Questionable Research Practices”** means practices that do not constitute **Scholarly** Misconduct or Unacceptable Research Practices but that require attention because they ~~could~~ **may** erode confidence in the integrity of the Research or Creative Activities.

**“Research”** means formal investigation conducted for the purpose of producing or contributing to generalizable knowledge, and the reporting thereof, by (1) a faculty member or other employee of the University as part of ~~his or her~~ **their** 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~~

**but not** limited to, a master's or doctoral thesis).

**“Research Record”** means the record of data or results from scholarly inquiry, including, ~~without being~~ **but not** limited to, research proposals, laboratory records, ~~both physical and electronic~~ **(in any format)**, 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”** means a person who is the subject of an Allegation. 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 **Scholarly** Misconduct allegedly occurred.

**“Responsible Administrator”** means the unit administrator who has most immediate responsibility for the Respondent and who is not disqualified from serving as Responsible Administrator by a Conflict of Interest. The RIO shall identify the Responsible Administrator. If the Responsible Administrator is a dean or other higher-level administrator, ~~she or he~~ **the Responsible Administrator** may designate a subordinate to act as Responsible Administrator. If the Respondent is a student, the Responsible Administrator shall be the chairperson or appropriate unit head of the department or program with which the student is affiliated. If an Allegation involves multiple Respondents, the RIO shall identify an appropriate individual or individuals to serve as the Responsible Administrator or Administrators.

**“Retaliation”** means an adverse action taken against an individual who has, in Good Faith, participated in a Misconduct Proceeding (as Complainant, witness, Inquiry Committee member, Investigation Committee member, Counsel, ~~Advisor,~~ Responsible Administrator, **Designated Officer**, or RIO) or otherwise cooperated in the review of an Allegation under ~~these Procedures~~ **this policy**, where there is a clear 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.

**“RIO”** means the University's Research Integrity Officer. The **Designated Officer will appoint the** RIO ~~normally will be the University Senior Vice President and Provost or the Provost's designee.~~

**“Research Scholarly Misconduct”** means 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 and Creative Activities, including~~ **Scholarly Misconduct may take many forms, including, but not limited to,** Improprieties of Authorship; Abuse of Confidentiality/Misappropriation of Ideas; Deliberate Misrepresentation of Qualifications; Deliberate Material Failure to Comply with Federal, State, or University Requirements Affecting Research; and Violation of Generally Accepted Research Practices. **Other common terms such as research**

**fraud, scientific misconduct, or research misconduct are subsumed within Scholarly Misconduct for the purposes of this policy.** Scholarly Misconduct does not include appropriate practices in the Creative Arts insofar as they accord with accepted standards in the relevant discipline. **Scholarly Misconduct** does not include ~~honest~~ **unintentional** error or ~~honest~~ differences in the interpretation or judgment of Research data **or results that can be reasonably substantiated by the data or results.**

**“Self-Plagiarism” means the representation of the same materials as original in more than one publication. Self-Plagiarism can include reuse of one’s own words, images, data, or other products of Research without appropriate attribution and/or, in the case in which copyright is held by another person or organization, without receiving appropriate permission. When not in accordance with accepted standards in the relevant discipline, Self-Plagiarism may constitute Scholarly Misconduct.**

**“Unacceptable Research Practices”** means practices that do not constitute **Scholarly 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 or Creative Activities.

## **II. GENERAL**

- a. Anonymous Allegations.** The University shall review anonymous Allegations under ~~these Procedures~~ **this policy.**
- b. Confidentiality.**
  - (1) Limited Disclosure of Allegation/Misconduct Proceedings. To the extent possible consistent with a fair and thorough review of an Allegation, disclosure of an Allegation and the resulting Misconduct Proceedings should be limited to those who need to know about them. In amplification, and not in limitation, of the foregoing:
    - (A) except as otherwise permitted or required by ~~these Procedures~~ **this policy**, or as required by law, members of Inquiry Committees; and Investigation Committees, the Responsible Administrator, **the Designated Officer**, the RIO, and University administrators involved in the review of an Allegation under ~~these Procedures~~ **this policy** shall make diligent efforts to preserve the confidentiality of the Allegation and resulting Misconduct Proceedings out of respect for the privacy of those involved, especially the Respondent; and
    - (B) if an Allegation results in an Investigation, the RIO may confidentially advise any person or entity that has plans to publish or disseminate the results of the Research or Creative Activities **to** which the Allegation relates of the pending Investigation.

- (2) Complainant Identity. The University shall make diligent efforts to honor the request of any Complainant that ~~her or his~~ **their** identity be kept confidential during the University's review of ~~his or her~~ **the** Allegation under ~~these Procedures~~ **this policy**.
  - (3) Breaches of Confidentiality. The RIO ~~should~~ **shall** be informed immediately of breaches of confidentiality. The RIO will investigate the breach of confidentiality and refer the matter to the appropriate unit administrator for review and such further action, if any, as the unit administrator may deem appropriate.
- c. **Cooperation.** To preserve the integrity of the environment for Research and Creative Activities, members of the University community are expected to cooperate in the review of Allegations under ~~these Procedures~~ **this policy**; (for example, by providing documents, materials, and testimony, if requested to do so by the RIO).
- d. **Location and Timeframe of Alleged Scholarly Misconduct.** An Allegation may be reviewed by the University under ~~these Procedures~~ **this policy** no matter where or when the **Scholarly** Misconduct allegedly occurred.
- e. **Events Requiring Immediate Action.** If, at any stage of ~~these Procedures~~ **this policy**, the RIO obtains reasonable information about
- (1) a possible criminal violation;
  - (2) an immediate health hazard or other imminent risk of danger to public health or safety or to experimental subjects;
  - (3) the need to take immediate action to protect the funds or equipment of any governmental or other sponsor of Research or Creative Activities, or to assure compliance with the terms of a contract sponsoring Research or Creative Activities;
  - (4) the need to take immediate action to protect any Complainant, Respondent, witness, member of an Inquiry Committee, **or** an Investigation Committee, or other person involved in any Misconduct Proceeding;
  - (5) the need to take immediate action to prevent the loss, destruction, or adulteration of any Evidence;
  - ~~(5)~~(6) the need to take immediate action to prevent or stop an imminent or continuing violation of an applicable law, regulation, or other governmental requirement or of a University rule or policy; or
  - ~~(6)~~(7) the probable public disclosure of an Allegation or any Misconduct Proceeding;

**then the following shall occur:**

The RIO shall immediately ~~so~~ notify the ~~Provost~~ **Designated Officer**, the **Office of** General Counsel, and, if appropriate, the pertinent government official or sponsor of ~~the~~ Research or Creative Activities, and, following consultation with the Office of ~~the~~ General Counsel, the RIO shall promptly make recommendations to the ~~Provost~~ **Designated Officer** as to responsive actions.

Notwithstanding any other provision of ~~these Procedures~~ **this policy**, appropriate University administrators shall have authority to take any actions they deem necessary or appropriate to safeguard University personnel, other participants in any Misconduct Proceeding, public health or safety, experimental subjects, sponsors' funds or equipment, Evidence, or the integrity of the research environment. That any such action is taken shall not be deemed to predetermine any finding or conclusion from the University's review of an Allegation under this ~~Ppolicy-and-Procedure~~, but any information arising from any such action may constitute Evidence.

f. **Notice.** Any notice or other document issued pursuant to this ~~Ppolicy and-Procedure~~ shall be in writing and shall include an explanation of any decision or opinion stated therein. The RIO shall provide the Respondent copies of all such documents in a timely manner.

g. **Interpretation.**

(1) **Time Periods.** Unless otherwise specified in ~~these Procedures~~ **this policy**:

(A) the failure to exercise any right granted under ~~these Procedures~~ **this policy** within the stated time period shall constitute a waiver of that right; ~~and~~

(B) references to days in ~~these Procedures~~ **this policy** shall mean calendar days; ~~and~~

(C) **the RIO may extend timelines and deadlines specified in the policy for good cause, through written notice to all parties.**

(2) **Plural Usage.** The text of ~~these Procedures~~ **this policy** generally assumes a single Complainant, Respondent, witness, and Allegation. Where there are multiple Complainants, Respondents, witnesses, or Allegations, ~~these Procedures~~ **this policy** shall be construed accordingly.

~~(3) —Headings. Headings used in these Procedures are for convenience of reference only and shall not be used for interpreting content.~~

h. **Objections.**

- (1) Both the Respondent and the Complainant may challenge the RIO's ~~identification~~ **appointment** of an Inquiry Committee member or an Investigation Committee member, but only on the basis of asserted Conflict of Interest on the part of the Inquiry Committee member or Investigation Committee member.

A Respondent or Complainant who wishes to file an ~~objection~~ **challenge** must do so in writing **to the RIO**, with accompanying rationale, within five (5) days of receiving notice **of the membership of the committee**. ~~The objection shall be submitted to the RIO.~~ The RIO **must is expected to** respond to the challenge in writing within five (5) days, either accepting it and taking appropriate action, or rejecting it for stated cause.

~~(1) — Extensions of Time. The deadlines in this Section II(h) may be extended by the RIO through written notice to the parties for good cause shown.~~

- (2) Other Objections and Complaints. If the Complainant or Respondent objects to any decision, procedural or substantive, made during the current or any previous Misconduct Proceeding in the review of the Allegation, ~~he or she~~ **they** may raise that objection:

- (A) with the RIO during the Preliminary Assessment;
- (B) with the Inquiry Committee during the Inquiry;
- (C) with the Investigation Committee during the Investigation; and
- (D) with the Provost during an internal appeal under Section IX below.

#### **i. Limitations.**

**Final procedural and substantive determinations** ~~Neither procedural or substantive decisions nor findings~~ made under ~~these Procedures~~ **this policy** by the RIO, **the Designated Officer**, a Responsible Administrator, an Inquiry Committee, an Investigation Committee, or the Provost ~~can~~ **cannot** be challenged or overturned under any other University policy or procedure.

### **III. ROLE OF THE RESEARCH INTEGRITY OFFICER (RIO)**

The RIO shall coordinate implementation of ~~these Procedures~~ **this policy** and shall be responsible for ~~their~~ **its** fair and impartial administration. The RIO shall not be an advocate for the Complainant or the Respondent.

The RIO shall serve as an advisor to Inquiry Committees and Investigation Committees. If so requested, the RIO shall provide logistical support, recruit expert witnesses, and arrange for legal advice ~~through~~ **to the committees** by the Office of ~~the~~ General Counsel.

When an Allegation involves Research or Creative Activities~~y~~ supported by a federal



funding source, the RIO shall see that the University meets all legal requirements to apprise it of the status of an Inquiry or an Investigation into that Allegation. The RIO also shall report regularly to the **Provost Designated Officer**; on the status of each Inquiry and each Investigation.

The RIO shall identify the Responsible Administrator. The RIO also shall disqualify any Responsible Administrator, and any potential or sitting member of an Inquiry Committee or Investigation Committee, if the RIO determines that such person has a Conflict of Interest **before or during the Misconduct Proceedings**.

The RIO shall take all reasonable and practical steps to obtain custody of all the Evidence needed to conduct the review of an Allegation under ~~these Procedures this policy~~, inventory the Evidence, and sequester it in a secure manner, ~~except where the Evidence encompasses scientific instruments shared by a number of users~~. The RIO may take custody of copies of the Evidence on ~~such~~ instruments **shared by a number of users**, so long as those copies are substantially equivalent to the evidentiary value of the ~~instruments original Evidence~~. The RIO will give the Respondent copies of, or reasonable, supervised access to, the Evidence. **The RIO and the RIO's administrative staff will make every effort to ensure that the sequestration of Evidence does not impede the ongoing scholarly activities of faculty, staff, and/or students who are not impacted by the Allegation, unless such activities have been halted or restricted as a result of immediate actions taken under II(e) above.**

Misconduct Proceeding Records will be kept in a secure manner, accessible only to the RIO's administrative staff. **In cases that terminate following a Preliminary Assessment, the records related to the Preliminary Assessment will be kept for three (3) years. For all other cases, The RIO shall keep all** Misconduct Proceeding Records **will be kept** for at least seven (7) years after the completion of the Misconduct Proceedings to which they relate, ~~except that the RIO shall keep Preliminary Assessment reports and related Misconduct Proceeding Records for three (3) years after the completion of the Preliminary Assessment to which they relate and then destroy them.~~

Other RIO responsibilities are set forth elsewhere in ~~these Procedures this policy~~.

Provisions regarding the designation, selection, reporting responsibilities, and evaluation of the RIO are set forth in the Appendix.

#### **IV. OTHER INTERNAL OR EXTERNAL PROCEEDINGS**

The conduct which forms the basis for an Allegation may also involve ~~the~~ possible violation of other University policies or the policies of other institutions, and of external laws and regulations, and may occasion other internal or external adjudicatory proceedings. The following shall govern the handling and sequencing of such proceedings.

- a. **Other Institution's Review.** Another educational or research institution may have the right to review the same Allegation (or a related Allegation) against the same Respondent. In such an event, the RIO shall consult **with her or his their** counterpart at the other institution to determine whether the University or the other institution is



- best able to review the Allegation. If the RIO determines that the other institution is best able to review the Allegation, the RIO shall so advise the **Provost Designated Officer**, who has authority to stay or terminate the University's review of the Allegation based on the review conducted at the other institution, as set forth in Section IV(~~g~~**f**) and Section V(**d**) below. The University and the other institution may also agree to conduct a joint review of the Allegation.
- b. Research Collaborator.** In the event of an Allegation involving Research or Creative Activities undertaken by a Respondent in collaboration with a colleague at another educational or research institution, the RIO shall advise ~~his or her~~ **their** counterpart at the other institution confidentially of the Allegation, and ascertain if a similar allegation has been made against the collaborator. If it has, the University, through the RIO, may attempt to cooperate and share information confidentially with the other institution in their respective reviews of the Allegation and of the related allegation involving the collaborator. The University and the other institution may also agree to conduct a joint review of the Allegation and the related ~~a~~**A**llegation involving the collaborator.
- c. Government Investigation.** Certain federal funding sources have the option, at any stage in ~~these Procedures~~ **this policy**, to initiate an independent investigation of an Allegation involving Research or Creative Activities supported by the funding source. In the event a federal funding source initiates such an investigation, the RIO shall consult the federal funding source regarding its investigation and shall advise the **Provost Designated Officer** whether the University should suspend its review of the Allegation during the federal funding source's investigation, which the **Provost Designated Officer** shall have authority to do, as set forth in Section IV(**f**) below.
- d. Criminal Process.** In general, University review of an Allegation under ~~these Procedures~~ **this policy** may occur in parallel with criminal processes. If an Allegation is also the subject of a criminal investigation or proceeding and the pertinent governmental authority advises the University that the University's review of the Allegation under ~~these Procedures~~ **this policy** may prejudice or interfere with that investigation or proceeding, the **Provost Designated Officer** shall have authority to stay any Misconduct Proceeding until the criminal investigation or proceeding is complete.
- e. Civil Litigation.** The existence of civil litigation involving the University may necessitate staying a Misconduct Proceeding. The **Provost Designated Officer** shall make such decisions on a case-by-case basis and promptly report them to the RIO.
- f. Provost Designated Officer Stay of Proceedings.** The **Provost Designated Officer** shall have authority to stay any Misconduct Proceeding if, following consultation with the Office of ~~the~~ General Counsel and the RIO, the **Provost Designated Officer** determines that other University procedures mandated by law must be completed prior to the University's further review of an Allegation under ~~these Procedures~~ **this policy**. Such governmentally- mandated procedures may involve various forms of

regulatory action (for example, the removal or clean-up of radioactive or other hazardous materials).

- g. Precedence of Proceedings.** Subject to Section IV(f) above and to the University's right to take interim action under any University policy or contract, review of an Allegation under ~~these Procedures~~ **this policy** shall precede all other internal University proceedings against a Respondent that relate to or arise out of the alleged **Scholarly** Misconduct, including, without being limited to, disciplinary, ~~anti-non-~~discrimination **proceedings with the exception of Title IX proceedings**, and grievance proceedings.

## V. PROCEDURES FOR CONDUCT OF MISCONDUCT PROCEEDINGS – GENERAL

- a. Determination of Procedures.** Those charged with conducting a Misconduct Proceeding shall determine the procedures that will be followed, provided that:
- (1) the procedures they adopt shall be those they deem best suited to achieve a fair and equitable review of the Allegation;
  - (2) the procedures they adopt shall reflect a spirit of mutual respect and collegiality, and may, therefore, be as informal as they deem appropriate under the circumstances;
  - (3) in Preliminary Assessments and Inquiries, testimony shall be obtained from witnesses through private interviews rather than through a ~~formal~~ hearing;
  - (4) in Investigations, the Investigation Committee may choose to obtain testimony from witnesses through a series of private interviews with witnesses, or at a hearing at which the Complainant and the Respondent shall be invited to be present, provided, ~~however,~~ that the Respondent may, within five (5) days of receiving a notice that the Investigation Committee has decided to conduct private interviews, deliver a notice to the RIO requiring that a hearing be conducted instead of such interviews;
  - (5) at a hearing, the Respondent and the Complainant shall have the opportunity to raise questions for the Investigation Committee to pose to each witness about the testimony of that witness and the Allegation;
  - (6) ~~if a Complainant who has requested that his or her identity be kept confidential declines to appear to give testimony at a hearing, the hearing may nevertheless be held,~~ **may proceed even when a Complainant declines to appear to give testimony**, if the Investigation Committee determines ~~that~~ there is credible Evidence of possible **Scholarly** Misconduct by the Respondent ~~apart from the Complainant's Allegation and that such Evidence is sufficient~~ to justify proceeding with the hearing **apart from the Complainant's Allegation**;

~~(7) if a Complainant who has requested that his or her identity be kept confidential declines to appear to give testimony at a hearing, the hearing may nevertheless be held, if the Investigation Committee determines that there is credible Evidence of possible Misconduct by the Respondent apart from the Complainant's Allegation and that such Evidence is sufficient to justify proceeding with the hearing;~~

~~(8)~~(7) the Respondent shall have the right to be advised by Counsel in all Misconduct Proceedings;

~~(9)~~(8) the Complainant shall have the right to be advised by Counsel in all Misconduct Proceedings;

~~(10)~~(9) in all Preliminary Assessments, Inquiries, and Investigations, the Respondent shall have the right to present Evidence and to identify persons who might have Evidence about the Allegation;

~~(11)~~(10) formal rules of evidence shall not apply;

**(11) the Complainant and the Respondent shall have the right to review documents, reports, and other Evidence submitted in support of their testimony, and the Complainant and the Respondent may provide or be asked to provide corrections of misrepresentations and errors, along with supporting documentation, and may supply additional documentation in response to the Evidence;**

(12) each Misconduct Proceeding shall be conducted confidentially and in private except that, in the event of a hearing, the Investigation Committee may decide that it will be open if requested by the Respondent and if permissible under applicable regulations; and

(13) to the extent that a published regulation of a federal funding source requires a specific procedural element in the review and adjudication of an Allegation concerning a proposal to or an award from that federal funding source, that procedural element shall be included in the procedures adopted.

At the start of each Misconduct Proceeding, the RIO shall notify the Complainant and the Respondent of the procedures that will be followed during that Misconduct Proceeding.

**b. General Counsel Advice.** The Office of ~~the~~ General Counsel shall, when so requested, provide legal advice regarding the implementation of this ~~Ppolicy and Procedure~~ and other aspects of the University's review of an Allegation under this ~~Ppolicy and Procedure~~ to the RIO, **Designated Officer**, the Responsible Administrator, the Inquiry Committee, the Investigation Committee, **the individual hearing an appeal**, ~~an Appeals Committee~~, and the Provost.

**c. Respondent Questions.** The RIO shall contact the Respondent at the start of each

Misconduct Proceeding and attempt to answer any questions about that Misconduct Proceeding.

- d. **Admission of Scholarly Misconduct.** The ~~Provost~~ **Designated Officer** shall have authority to terminate the University's review of any Allegation under the Procedures upon the admission by the Respondent that **Scholarly** Misconduct occurred and that the Respondent was responsible for it~~;~~. **The Designated Officer should consider whether** ~~if~~ the termination of the review of ~~that the~~ Allegation would ~~not~~ prejudice the University's review of another Allegation against that Respondent or against a different Respondent or the University's ability to assess the extent and consequences of the **Scholarly** Misconduct and what action should be taken in response to it.
- e. **Records to Agency.** When the alleged **Scholarly** Misconduct involves Research or Creative Activities supported by a federal funding source, the RIO shall make available to its authorized personnel any Misconduct Proceeding Records that such personnel request.
- f. **Additional Respondents.** If, during the course of any Misconduct Proceeding, additional Respondents are identified, they shall be
  - (1) ~~not~~ **Notified immediately;**
  - (2) **Provided an opportunity to respond in writing to the notification within fourteen (14) days of receiving notice; and**
  - (3) **Incorporated into the ongoing investigation from the point of notification, unless and the RIO otherwise determines that a separate investigation is warranted shall, to the degree feasible, attempt to coordinate the Misconduct Proceedings against all the Respondents.**

## VI. ALLEGATIONS OF **SCHOLARLY MISCONDUCT** AND PRELIMINARY ASSESSMENTS

- a. **Allegation of Scholarly Misconduct.** Any member of the University community or other person who wishes to make an Allegation shall contact the RIO. The ~~a~~ Allegation should include sufficient detail and documentation to facilitate the inquiry process.

~~The RIO shall notify the Respondent promptly of an Allegation and advise both the Complainant and the Respondent of their right to be advised by Counsel during all Misconduct Proceedings.~~

The RIO shall advise the ~~Provost~~ **Designated Officer** of all Allegations.

- b. **Preliminary Assessment.** In the event of an Allegation, the RIO shall promptly conduct a Preliminary Assessment to determine whether an Inquiry is warranted. **The RIO shall typically complete a Preliminary Assessment within fourteen (14) days of receiving an Allegation.**

- c. **Purpose and Nature of 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~~ **conduct** any interviews on the Allegation or to engage in an exhaustive review of all Evidence relevant to such **an** Allegation.

**If the RIO determines that Evidence may be needed, the RIO shall notify the Respondent promptly of the Allegation and begin the process of sequestering Evidence. The RIO shall notify the Respondent of their right to be advised by Counsel during all Misconduct Proceedings. The RIO shall provide the Respondent with a copy of this policy, describe the phases of the process and typical timelines, communicate the Respondent's right to challenge the Allegation and explain how to do so, and attempt to answer the Respondent's questions.**

**Other offices or administrators may be notified and given the facts of the Allegation as appropriate and necessary to facilitating the process. All parties, witnesses, members of committees involved in the process, and administrators and others who are notified of the Allegation on a need to know basis are expected to preserve confidentiality throughout the process.**

- d. **Determination Regarding Inquiry.** The RIO shall determine if the Allegation rises to the level of a potential violation of the policy.

- (1) **Preliminary Assessment - Standard for Determination.** The RIO shall determine that an Inquiry is warranted if, in ~~his or her~~ **their** judgment, (1) the Respondent's alleged conduct could constitute **Scholarly** Misconduct or Unacceptable Research Practices, and (2) there is credible Evidence to support further review of the Allegation.

- e. (2) **Inquiry Warranted.** If the RIO determines that an Inquiry is warranted, the RIO shall prepare a Preliminary Assessment referral which explains the basis for ~~his or her~~ **the** determination. The RIO shall transmit copies of the Preliminary Assessment referral to the Respondent and the ~~Provost~~ **Designated Officer**. 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 referral.

**The RIO shall provide the Respondent with an opportunity to respond to the Allegation in writing. The Respondent shall have fourteen (14) days from receipt of the Preliminary Assessment referral to submit a written response. The RIO will include the written response in the record for review by the Inquiry Committee.**

After completing the Preliminary Assessment referral, the RIO shall immediately initiate an Inquiry.

- f. (3) Inquiry Not Warranted.**
- ~~(1)~~ **(A) Preliminary Assessment Report.** 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~~ **their** determination. The RIO shall provide a copy of the Preliminary Assessment report to the Respondent, the Complainant, and the ~~Provost~~ **Designated Officer**.
  - (B) Response from the Respondent.** The RIO shall provide the Respondent with an opportunity to respond to the Allegation in writing. The Respondent shall have fourteen (14) days from receipt of the Preliminary Assessment report to submit a written response if they so choose. The RIO will include the written response in the Misconduct Proceeding Record.
  - ~~(2)~~ **(C) End of Review.** The RIO's determination that an Inquiry is not warranted shall **normally** conclude the University's review of that Allegation.
  - (D) Designated Officer Override — Initiation of Inquiry.** If the Designated Officer determines that an Inquiry is warranted within fourteen (14) days of receiving the Preliminary Assessment Report, the Designated Officer may issue a decision to the RIO and the Respondent overruling the RIO's determination for stated cause and instructing the RIO to initiate an Inquiry immediately. Upon receiving the decision of the Designated Officer, the RIO shall initiate an Inquiry.
  - (E) Challenge by Complainant.** The Complainant may challenge the RIO's determination that an Inquiry is not warranted in writing. The challenge will be reviewed by the Designated Officer, who may reject it for stated cause or overrule the RIO's determination as described above.

**g.e. 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 Section XII(a)(1) below.

## VII. INQUIRY

- a. Committee.** If the RIO determines that an Inquiry is warranted, ~~she or he~~ **the RIO** shall promptly, **and normally within thirty (30) days**, appoint a Committee of Inquiry of at least three members, chosen for their pertinent expertise. **Prior to the appointment of the Committee, each party shall be given an opportunity to challenge potential members, as outlined in II(h).** While Inquiry Committees will

usually be composed of University faculty, they may also include persons other than University faculty when the RIO determines that such persons have experience or expertise useful to the Inquiry. The Inquiry Committee shall select one of its members to act as its chairperson.

- b. Charge.** The RIO shall draft a Charge to the Inquiry Committee based upon the Preliminary Assessment referral. The RIO shall submit that Charge and a copy of the Preliminary Assessment referral to the Inquiry Committee and the Respondent at the beginning of the Inquiry. Based on the evidence reviewed during the Inquiry phase, the RIO may modify the initial ~~e~~Charge to the Inquiry Committee.
- c. Briefing.** Before the Inquiry begins, the RIO and an attorney from the Office of ~~the~~ General Counsel shall brief the Inquiry Committee on ~~these Procedures~~ **this policy**, other relevant University regulations, and legal and procedural issues that the Inquiry Committee is likely to encounter in conducting the Inquiry.
- d. Standard for Determination.** The Inquiry Committee shall conduct the Inquiry to determine whether an Investigation is warranted. ~~A member of an~~ **The** Inquiry Committee shall determine that an Investigation is warranted if, in ~~her or his~~ **its** judgment, an Investigation Committee could reasonably conclude that **Scholarly** Misconduct occurred. To so determine, the ~~member of the~~ Inquiry Committee must find that the Respondent's alleged conduct could constitute **Scholarly** Misconduct and that there is credible Evidence to support further review of the Allegation, but must also find that there is sufficient credible Evidence and credible Evidence of such merit that an Investigation Committee could reasonably conclude, in accordance with the criteria in Section VIII(e) below, that **Scholarly** Misconduct occurred.
- e. 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 Committee, like the RIO, ~~are~~ **is** not obligated to conduct any interviews or hearings on the Allegation or to engage in an exhaustive review of all Evidence relevant to the Allegation. When a majority of the members of the Inquiry Committee concludes ~~s~~ that an Allegation warrants an Investigation, the Inquiry Committee shall proceed to draft the Inquiry report.
- f. Assistance for ~~Panel~~ **Committee**.** The RIO shall secure for the Inquiry Committee such special scientific or technical assistance as it requests to evaluate an Allegation.
- g. RIO.** The RIO shall not participate in the deliberations of the Inquiry Committee or vote on whether an Investigation is warranted. The Inquiry Committee may request the assistance of the RIO during its deliberations and in the preparation of the Inquiry report, but shall not seek the RIO's opinion as to whether an Investigation is warranted.



**h. Timing.** Every effort shall be made to complete the Inquiry within **sixty (60)** days of its inception unless circumstances warrant a longer period, ~~in which event the RIO shall notify the Respondent of the reason for the delay and the date on which the RIO expects that the Inquiry will be completed.~~ The **Provost Designated Officer** shall decide whether the delay is warranted. If the **Provost Designated Officer** determines that it is, the RIO shall ~~so~~ notify the Respondent **of the reason for the delay and the date on which the RIO expects that the Inquiry will be completed.** If the **Provost Designated Officer** finds the delay unwarranted, the RIO shall work with the Respondent, and the Inquiry Committee to expedite completion of the Inquiry, but the Inquiry shall continue until its completion if, despite their diligent efforts, it cannot be finished in **sixty (60)** days. The ~~Provost shall make the~~ RIO's report about the delay **will become** part of the Misconduct Proceeding Records.

**i. Inquiry Report.**

- (1) Content. The Inquiry Committee shall prepare an Inquiry report 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 name and position of the Complainant or other source of the Allegation;
  - (C) the nature of the alleged **Scholarly** Misconduct and how it does or does not fit within the definition of **Scholarly** Misconduct;
  - (D) a description of the Evidence it reviewed and the sufficiency, credibility, and merit of that Evidence;
  - (E) summaries of any interviews it conducted; and
  - (F) a determination of whether an Investigation is warranted.
- (2) Deviation from Practice. If the alleged **Scholarly** 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) Investigation Warranted. If the Inquiry Committee determines that an Investigation is warranted, the Inquiry report may be summary in nature, provided that the Inquiry Committee sets forth the Evidence that supports its determination in sufficient detail for the Respondent and an Investigation Committee to understand the basis for the Inquiry Committee's decision.
- (4) Investigation Not Warranted. If the Inquiry Committee determines that an Investigation is not warranted, the Inquiry report shall be more

comprehensive and shall include a detailed statement of why the Respondent's alleged conduct would not, under the definitions in ~~these Procedures~~ **this policy**, constitute **Scholarly** Misconduct, or why the available Evidence is insufficient, or lacks sufficient credibility or merit, to warrant an Investigation.

- (5) 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 (7) days of receipt of the draft Inquiry report. If the Respondent comments on the draft Inquiry report, the Inquiry Committee 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.
- (6) ~~Provost~~ **Designated Officer** Opinion on Final Draft Report.
  - (A) After making any changes it deems appropriate in the draft Inquiry report in light of the Respondent's comments, the Inquiry Committee shall prepare a final draft of the Inquiry report. The RIO shall send the ~~Provost~~ **Designated Officer** a copy of the final draft of the Inquiry report, attaching any RIO comments regarding procedural questions and concerns. Within ~~14~~ **twenty-one (21)** days after delivery of the final draft Inquiry report to the ~~Provost~~ **Designated Officer**, the ~~Provost~~ **Designated Officer** may submit an opinion to the RIO, the Responsible Administrator, and the Inquiry Committee on either or both of the following grounds:
    - (i) If the ~~Provost~~ **Designated Officer**, with advice from the Office of ~~the~~ General Counsel, finds that the final draft Inquiry report reflects procedural error by the Inquiry Committee in conducting the Inquiry, the ~~Provost~~ **Designated Officer** shall so inform the RIO and shall identify and explain the Inquiry Committee's procedural error. The Inquiry Committee shall either correct the error before completing the Inquiry and the Inquiry report or shall notify the ~~Provost~~ **Designated Officer** in, or concurrently with the issuance of, the final Inquiry report that it does not believe a material procedural error occurred.
    - (ii) If the ~~Provost~~ **Designated Officer** finds that the Inquiry Committee's determination, as set forth in the final draft Inquiry report, is substantively ~~wrong~~ **incorrect** because the Evidence does not support the Inquiry Committee's determination, the ~~Provost~~ **Designated Officer** shall so inform the RIO and shall identify and explain the reason the ~~Provost~~ **Designated Officer** believes the Inquiry Committee's determination to be in error. The Inquiry

Committee shall reconsider its decision in light of the opinion by the **Provost Designated Officer**. If the Inquiry Committee changes its determination in light of the opinion by the **Provost Designated Officer**, it shall submit a new draft of the Inquiry report to the Respondent for further comment. If the Inquiry Committee does not change its determination in light of the opinion by the **Provost Designated Officer**, the Inquiry Committee shall respond to the **Provost Designated Officer** in completing the Inquiry report and make any changes in the Inquiry report that it deems appropriate in light of the opinion by the **Provost Designated Officer**.

- (B) The opinion by the **Provost Designated Officer** shall be included as an appendix to the final Inquiry report.
- (7) Distribution of Final Report. The RIO shall send the **Provost Designated Officer** and the Respondent a copy of the final Inquiry report.

**j. Determination ~~Regarding~~ Investigation.**

- (1) Initiation of Investigation. If ~~a majority of the members of~~ the Inquiry Committee determines that an Allegation warrants an Investigation, the RIO shall initiate an Investigation.
- (2) **Provost Designated Officer** Override - Initiation of Investigation. If ~~a majority of the members of~~ the Inquiry Committee determines that an Investigation is not warranted, the **Provost Designated Officer** may, within **fourteen (14)** days of receiving the final Inquiry report, issue a decision to the RIO and the Respondent overruling the Inquiry Committee for stated cause and instructing the RIO to initiate an Investigation immediately. Upon receiving the decision of the **Provost Designated Officer**, the RIO shall initiate an Investigation.
- (3) No Investigation. If ~~a majority of the members of~~ the Inquiry Committee determines that an Investigation is not warranted and the **Provost Designated Officer** does not overrule the determination of the Inquiry Committee, the determination of the Inquiry Committee will conclude the University's review of that Allegation, except as provided in Section XI below.
- (4) Dissent. Any member of the Inquiry Committee who does not agree with the determination of the majority of the Inquiry Committee may file a dissent to the Inquiry report.
- (5) Bad Faith. If ~~a majority of the members of~~ the Inquiry Committee 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 Inquiry Committee shall refer the matter for administrative review and appropriate action, as set

forth in Section XII(a)(1) below.

- k. **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, ~~if one was issued,~~ the opinion of the **Provost Designated Officer, if one was issued.**

## VIII. INVESTIGATION

- a. **Committee.** The RIO shall make every effort to initiate an Investigation within **thirty (30) days** of the Inquiry Committee's determination, ~~or the decision of the Provost Designated Officer,~~ that an Investigation is warranted. The RIO shall appoint an Investigation Committee of not less than three (3) members, chosen for their pertinent expertise. **No members of the Inquiry Committee shall serve on the Investigation Committee. Prior to the appointment of the Investigation Committee, each party shall be given an opportunity to challenge potential members, as outlined in II(h)** While Investigation Committees will usually be composed of University faculty, they may also include persons other than University faculty when the RIO determines that such persons have experience or expertise useful to the Investigation. The Investigation Committee shall select one of its members to act as its chairperson.
- b. **Notifications.**
  - (1) Notification - Internal. The RIO shall notify the **Provost Designated Officer,** and the **Office of General Counsel** of the initiation of the Investigation.
  - (2) Notification - Funding Source. When the alleged **Scholarly** Misconduct involves Research or Creative Activities supported by an external (non-University) funder, the RIO shall 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,~~ if applicable.
- c. **Charge.** The RIO shall draft a Charge to the Investigation Committee based on the Inquiry report and, ~~if one was issued,~~ the **decision opinion** of the **Provost Designated Officer, if one was issued.** The RIO shall submit a copy of that Charge, the Preliminary Assessment referral, the Inquiry report, and, ~~if one was issued,~~ the overruling decision of the **Provost Designated Officer, if one was issued,** to the Investigation Committee and the Respondent at the beginning of the Investigation.
- d. **Briefing.** Before the Investigation begins, an attorney from the Office of ~~the~~ General Counsel and the RIO shall brief the Investigation Committee on this ~~Policy and Procedure,~~ other relevant University regulations, and legal and procedural issues that the Investigation Committee ~~are is~~ likely to encounter in

conducting the Investigation.

- e. **Standard for Determination.** The Investigation Committee shall determine if **Scholarly** Misconduct occurred, if the Respondent was responsible for it, and the extent, gravity, and actual and potential consequences of the **Scholarly** Misconduct. To conclude that **Scholarly** Misconduct occurred, a majority of the members of the Investigation Committee must find:

- (1) **that there was** a significant departure from accepted practices of the relevant research community; and
- (2) that the **Scholarly** Misconduct was committed intentionally, knowingly, or recklessly; and
- (3) that the Allegation was proven by a Preponderance of the Evidence.

- f. **Evidence Review.** The Investigation Committee shall examine all Evidence that it deems pertinent to the Allegation. At its discretion, the Investigation Committee 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 Committee.

- g. **Testimony.**

- (1) Interviews or Hearing. ~~When possible,~~ **In accordance with V(A)(4),** the Investigation Committee ~~shall~~ **may** conduct **private** interviews or a hearing with the Complainant, the Respondent, and other persons, if any, who have material information regarding the Allegation.
- (2) Transcript. The RIO shall arrange for the preparation of a transcript of each witness's interview or hearing testimony and shall send the transcript to the witness for comment or correction. The witness shall have seven (7) 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 or hearing testimony.

- h. **Assistance for Committee.** If the Investigation Committee 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 Committee the assistance that it requests.

- i. **RIO.** The RIO shall not participate in the deliberations of the Investigation Committee or vote on whether **Scholarly** Misconduct occurred. The

Investigation Committee may request the assistance of the RIO during its deliberations and in the preparation of the Investigation report, but shall not seek the RIO's opinion as to whether **Scholarly** Misconduct occurred.

- j. **Timing.** The Investigation Committee shall use ~~their~~ **its** best efforts to complete the Investigation within **one hundred and twenty (120)** days of its inception.
- (1) Extension. If the Investigation cannot be completed in that period, the RIO may request an extension from the **Provost Designated Officer**, in which event the RIO shall notify the Respondent of the reason for the delay and the date on which the RIO expects that the Investigation will be completed. The RIO's report about the delay shall be included in the Misconduct Proceeding Records. If the alleged **Scholarly** Misconduct involves Research or Creative Activities 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 Committee's activities to date and an estimate of the completion date of the Investigation.
  - (2) Notice of Stay. If the Investigation is stayed and the alleged **Scholarly** Misconduct involves Research or Creative Activities 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.

k. **Investigation Report.**

- (1) Content. The Investigation Committee shall prepare a written Investigation report. It shall include:
  - (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 relevant application or grant number, if the alleged **Scholarly** Misconduct involves sponsored Research or Creative Activities;
  - (C) a description of the Allegation and the name **of the Complainant**, if known and not held in confidence, ~~of the Complainant~~;
  - (D) a summary of the Evidence reviewed, including, ~~without being~~ **but not** limited to, an account of how and from whom it was obtained;
  - (E) a transcript of each interview or hearing 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 Section VIII(e) 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; **and**
  - (I) a copy of ~~these Procedures~~ **this policy** and any other University policies and procedures relevant to the Investigation.
- (2) **Scholarly** Misconduct Finding. If the Investigation Committee finds that **Scholarly** Misconduct occurred, the Investigation report must include:
- (A) the Investigation Committee's determination that:
    - (i) there was a significant departure from accepted practices of the relevant research community; and
    - (ii) the **Scholarly** Misconduct was committed intentionally, knowingly, or recklessly; and
    - (iii) 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 **Scholarly** Misconduct, and, if so, an explanation of that correction or retraction.
- (3) No **Scholarly** Misconduct Found. If the Investigation Committee does not find that **Scholarly** Misconduct occurred, it shall explain the reasons for its decision in the Investigation report, with specific reference to the pertinent criteria set forth in Section VIII(e) above.
- (4) 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 **thirty (30)** days of receipt of the draft Investigation report. If the Respondent comments on the draft Investigation report, the Investigation Committee 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.



- (5) **Provost Designated Officer** Opinion on **Final** Draft Report.
- (A) After making any changes it deems appropriate in the draft Investigation report in light of the Respondent's comments, the Investigation Committee shall prepare a **final revised** draft of the Investigation report. The RIO shall send the **Provost Designated Officer** a copy of the **final** draft of the Investigation report, attaching any RIO comments regarding procedural questions and concerns. Within ~~14~~ **thirty (30)** days after delivery of the **final** draft Investigation report to the **Provost Designated Officer**, the **Provost Designated Officer** may submit an opinion to the RIO, the Responsible Administrator, and the Investigation Committee on either or both of the following two grounds:
- (i) If the **Provost Designated Officer**, with advice from the Office of ~~the~~ General Counsel, finds that the **final** draft Investigation report reflects procedural error by the Investigation Committee in conducting the Investigation, the **Provost Designated Officer** shall so inform the RIO and shall identify and explain the Investigation Committee's procedural error.
- ~~(ii)~~ The Investigation Committee shall either correct the error before completing the Investigation and the Investigation report or shall notify the **Provost Designated Officer** in, or concurrently with the issuance of, the final Investigation report that it does not believe a material procedural error occurred.
- ~~(iii)~~ If the **Provost Designated Officer** finds that the Investigation Committee's determination, as set forth in the **final** draft Investigation report, is substantively **wrong incorrect** because the Evidence does not support the Investigation Committee's determination, then the **Provost Designated Officer** shall so inform the RIO and shall identify and explain the reason the **Provost Designated Officer** believes the Investigation Committee's determination to be in error. The Investigation Committee shall reconsider its decision in light of the opinion by the **Provost Designated Officer**. If the Investigation Committee changes its determination in light of the opinion by the **Provost Designated Officer**, it shall submit a new draft of the Investigation report to the Respondent for further comment. If it does not change its determination in light of the opinion by the **Provost Designated Officer**, the Investigation Committee shall respond to the opinion by the **Provost Designated Officer**



in completing the Investigation report and make any changes in the Investigation report that it deems appropriate in light of the opinion by the ~~Provost~~ **Designated Officer**.

(B) **In most cases, the Investigation Committee should be expected to finalize the Investigation report within thirty (30) days of receiving the Designated Officer's opinion.**

~~(B)~~(C) The opinion by the ~~Provost~~ **Designated Officer** shall be included as an appendix to the final Investigation report.

(6) Dissent. Any member of the Investigation Committee who does not agree with the determination of the majority of the Investigation Committee may file a dissent to the Investigation report.

**l. Bad Faith.** If ~~a majority of the members of~~ the Investigation Committee 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 Investigation Committee shall refer the matter for administrative review and appropriate action as set forth in Section XII(a)(1) below.

**m. Final Report; Provost Overrule.**

(1) Copy to Provost. The ~~RIO~~ **Designated Officer** shall send the Provost a copy of the final Investigation report.

(2) Overrule; New Investigation. If the Provost believes the Investigation Committee's determination is ~~wrong~~ **incorrect**, the Provost may, within **fourteen (14)** days of receiving the final Investigation report, issue a written decision to the **Designated Officer and the** RIO overruling the Investigation Committee for stated cause and instructing the RIO to impanel another Investigation Committee immediately.

(3) Second Investigation Committee. If a second Investigation Committee is impaneled, it shall conduct a new Investigation. Subject to the Respondent's right to appeal pursuant to Section IX below, the second Investigation Committee's determination shall be binding.

**n. Distribution of Final Report; Comments.** The RIO shall send a copy of the final Investigation report to the Respondent **after the Provost has had an opportunity to review and overrule the Final Report as appropriate**. The Respondent may deliver comments on the Investigation report to the RIO within **fourteen (14)** days of the delivery of the final Investigation report to the Respondent. The RIO shall include any such comments in the Misconduct Proceeding Records.

**o. Notifications.**

- (1) 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, including those portions of the Investigation report that address the Complainant's role and testimony, if any, in the Investigation.
- (2) Federal Support. When the alleged **Scholarly** Misconduct involves Research or Creative Activities supported by a federal funding source, the RIO shall submit the Investigation report to it. It may accept the Investigation report, ask for clarification or additional information, which shall be provided by the RIO, or commence its own independent investigation.
- (3) Other Funding Source. When the ~~A~~ alleged **Scholarly** Misconduct involves Research or Creative Activities 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 and such other information, if any, as it may request in response to the RIO's notification.

## IX. APPEAL

- a. **Appeal Rights.** All Respondents who are found to have committed **Scholarly Misconduct** have the right to an internal University appeal. During appellate proceedings, no disciplinary proceeding will be commenced as a consequence of the finding of **Scholarly Misconduct**. In addition, ~~A~~ Respondent who has applied for or received support from a federal funding source for the Research or Creative Activities in relation to which the **Scholarly** Misconduct occurred has the right under certain circumstances to appeal a finding of **Scholarly** Misconduct by an Investigation Committee 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.~~

**During appellate proceedings, appropriate University administrators may initiate on an interim basis actions they deem necessary to safeguard University personnel, other participants in any Misconduct Proceeding, public health or safety, experimental subjects, sponsors' funds or equipment, Evidence, or the integrity of the research environment. These actions do not indicate that a conclusion has been reached from the University's review process, and such actions may be revised, revoked, or made permanent upon the confirmation of a final outcome once appellate proceedings have concluded.**

- b. **External Appeal Record.** If the Respondent appeals a finding of **Scholarly** Misconduct by an Investigation Committee to a federal funding source, the

RIO shall attempt to obtain copies of all documents filed in that appeal.

**c. Procedure.**

- (1) Internal Appeal. The Respondent may appeal a finding of **Scholarly Misconduct** to the RIO within **thirty (30)** days of the date of the **finding final Investigation report**. The appeal must be in writing and must set forth the **substantive or procedural** reasons (~~whether substantive or procedural~~) the Respondent believes the finding of **Scholarly Misconduct** is ~~wrong~~ **incorrect**. The RIO will submit the appeal to the Provost for decision.
- (2) Review and Recommendation. The Provost 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 ~~these Procedures~~ **this policy** to review the Misconduct Proceeding Records and the appeal and make recommendations to the Provost.
- (3) Request for Additional Information. The Provost, or the Provost'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.
- (4) Basis for Decision. The Provost'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, **and, if available, the recommendations from Section IX(c)(2) above.**

**d. New Evidence.** If the RIO learns of previously unavailable material Evidence relevant to the finding of **Scholarly Misconduct** during the appeal, the RIO shall inform the Provost and the Respondent of the new Evidence. If the Provost concurs that the new Evidence could materially affect the finding of **Scholarly Misconduct**, the Provost shall remand the finding ~~of Misconduct~~ to the Investigation Committee that made the finding for its consideration of the new Evidence. The Investigation Committee shall notify the Provost within **fourteen (14)** days that it finds the new Evidence immaterial to its prior finding or that it wishes to reopen the matter. The Provost may extend this period for good cause by notice to the Respondent and the RIO.

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

**X. FINAL RESOLUTION AND OUTCOME**

**a. Exoneration.** If the Preliminary Assessment results in a determination that an

Inquiry is not warranted, or if the Inquiry Committee decides that an Investigation is not warranted, or if an Investigation Committee does not find that **Scholarly** Misconduct has occurred, or if a finding of **Scholarly** Misconduct is reversed on appeal, the Responsible Administrator and the RIO shall make diligent efforts, if requested by the Respondent, to restore the Respondent's reputation. These efforts shall be undertaken in consultation with the Respondent, provided that they shall: (1) be reasonable and practicable under the circumstances and proportionate to the damage to the Respondent's reputation as a result of the Allegation; (2) be consistent with applicable federal funding source expectations, if the Research or Creative Activities which ~~was~~ **were** the subject of the Allegation ~~was~~ **were** supported by that federal funding source; and (3) 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 ~~these Procedures~~ **this policy**.

**b. Scholarly Misconduct Found.**

- (1) Actions. After all appeals have been decided, or the opportunity for an appeal has expired, and there is a final decision that **Scholarly** Misconduct has occurred:
  - (A) the Responsible Administrator, after consultation with the Provost, shall take appropriate actions in response to the finding of **Scholarly** Misconduct. Such actions may include:
    - (i) the imposition of sanctions within the authority of the Responsible Administrator and initiating University disciplinary proceedings appropriate to the finding of **Scholarly** Misconduct pursuant to applicable University policies, procedures, and contracts; **or**
    - (ii) ~~referring referral of~~ the finding of **Scholarly** Misconduct to another administrator who has authority to impose sanctions and initiate disciplinary proceedings. ~~and~~
  - (B) the RIO, after consultation with the Office of ~~the~~ General Counsel and the Provost, shall attempt to correct, and/or seek retraction of, any part of the Research Record **or other relevant records** materially affected by the **Scholarly** Misconduct. The Respondent will not interfere with the RIO's efforts in these regards. **Those affected by the Scholarly Misconduct are permitted to share this information with their colleagues.**
- (2) Disciplinary Action. The University views **Scholarly** Misconduct as grounds for disciplinary action pursuant to applicable University policies, procedures, and contracts, ~~including procedures for challenging or grieving disciplinary action~~. **Disciplinary action may include suspension and/or termination of employment of a faculty or staff member found**

responsible for Scholarly Misconduct. Disciplinary action may include termination of enrollment and/or degree revocation for a student found responsible for Scholarly Misconduct. Disciplinary action may be challenged or grieved according to relevant University policies.

~~(3) 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.~~

~~(4)~~(3) Government Sanctions. In addition to sanctions imposed by the University, certain federal funding sources may impose sanctions of their own, if the **Scholarly** Misconduct involved Research or Creative Activities which they supported.

~~(5)~~(4) Serious Deviation. The University may take action, including disciplinary action, in response to a finding of **Scholarly** Misconduct based on a serious deviation from accepted practices even if another Allegation of **Scholarly** Misconduct against the same Respondent has not been sustained and the University has an obligation under Section X(a)~~(2)~~ above with respect to the unsustained Allegation.

- c. **New Evidence.** After all appeals have been decided, or if the opportunity for appeal has expired, and there is a final decision, that **Scholarly** Misconduct has occurred, if the Respondent learns of previously unavailable material Evidence relevant to the determination of **Scholarly** Misconduct, **within thirty (30) days from the appeal decision or thirty (30) days from the date the opportunity to appeal has expired**, 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 Investigation Committee that conducted the Investigation of the **Scholarly** Misconduct. The Investigation Committee shall promptly consider the new Evidence and notify the Provost of its impact on its finding of **Scholarly** Misconduct and on its Investigation report. Based on the new Evidence and the information from the Investigation Committee, the Provost may reverse or affirm the previous finding of **Scholarly** Misconduct, or remand the matter to the Investigation Committee to conduct a new Investigation in light of the new Evidence. The Provost shall issue that decision with stated rationale within **thirty (30) days** of receiving the notice from the Investigation Committee, but may extend this period for good cause by notice to the Respondent and the RIO.
- d. **Termination.** If the **Provost Designated Officer** terminates the review of any Allegation under Section ~~IV(f) or~~ V(d), an explanation for such termination shall be included in the Misconduct Proceeding Records.

## XI. UNACCEPTABLE AND QUESTIONABLE RESEARCH PRACTICES

- a. **Referral from Proceedings.** An Inquiry Committee may find that, while a Respondent's conduct does not warrant an Investigation, it nevertheless constitutes

an Unacceptable Research Practice or Questionable Research Practice. Similarly, an Investigation Committee may find that, while a Respondent's conduct does not constitute **Scholarly** Misconduct, it nevertheless constitutes an Unacceptable Research Practice 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. **Disciplinary action may be, including procedures for challenging or grieving disciplinary action according to relevant University policies.**

- b. Discovery and Report.** Unacceptable Research Practices or Questionable Research Practices may also be discovered in circumstances other than a review of an Allegation under ~~these Procedures~~ **this policy**. When that happens, the alleged Unacceptable Research Practice 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.

## **XII. BAD FAITH**

### **a. Complainant or Witness.**

- (1) Referral for Action. If the RIO, an Inquiry Committee, or an Investigation Committee 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.
- (2) 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.

## **XIII. PROTECTING PARTICIPANTS IN MISCONDUCT PROCEEDINGS**

- a. 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 Committee member, Investigation Committee member, Counsel, ~~Advisor,~~ Responsible Administrator, **Designated Officer**, or RIO, or who has otherwise cooperated in the review of an Allegation under ~~these Procedures~~ **this policy**. These efforts shall be:

- (1) reasonable and practical under the circumstances;
- (2) proportionate to the risk to the individual's position and reputation;

and

- (3) consistent with applicable funder expectations, if the Research or Creative Activities which ~~was~~ were the subject of the Allegation ~~was~~ were supported by a federal funding source.

**b. Retaliation.**

- (1) Prohibition. University employees and students shall not engage in or threaten Retaliation.
- (2) 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.
- (3) Discipline. The University views Retaliation by a University employee or student as grounds for disciplinary action pursuant to applicable University policies, procedures, and contracts.
- (4) 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 or Creative Activities which ~~was~~ were the subject of the Allegation whose review led to the Retaliation ~~was~~ were supported by a federal funding source, shall be consistent with applicable funder expectations.

~~On an interim basis, the RIO shall, after consultation with the Provost, and the Office of the General Counsel, modify these Procedures to incorporate relevant requirements of new laws, regulations, executive orders, and other governmental requirements as such laws, regulations, orders, and requirements take effect. The RIO shall promptly report these changes to the Provost.~~

Replacement effective June 29, 2017 for:

*III-1.10(A) University of Maryland Procedures for Scholarly Misconduct*



## APPENDIX

### Appointment and Evaluation of the **Designated Officer and the Research Integrity Officer**

#### I. APPOINTMENT OF THE DESIGNATED OFFICER

1. **The Designated Officer shall be appointed by the Provost, and shall serve at the pleasure of the Provost.**
2. **The Designated Officer shall report to the Provost and shall keep the Provost informed about the progress of cases under this policy and about the educational and other activities of the RIO's office.**
3. **Should the Designated Officer be unable to fulfill the obligations and duties of the Designated Officer under this policy with respect to a particular Allegation due to conflicts of interest or other reasons, the Provost shall appoint a replacement Designated Officer.**

#### II. APPOINTMENT OF THE RIO

1. The RIO shall be appointed ~~from the tenured faculty~~ by the **Provost Designated Officer**, and shall serve at the pleasure of the **Provost Designated Officer**.
2. The RIO shall report to the **Provost Designated Officer** and shall keep ~~her or him~~ **the Designated Officer** informed about the progress of cases under ~~these Procedures~~ **this policy** and about the educational and other activities of the RIO's office. The RIO shall also perform such other duties as are assigned the RIO under ~~these Procedures~~ **this policy**.
3. Should the RIO recuse himself or herself from the RIO's duties under ~~these Procedures~~ **this policy** with respect to a particular Allegation, the **Provost Designated Officer** shall appoint a replacement RIO.

#### II. EVALUATION OF THE RIO

1. The RIO shall submit a report annually to the **Provost Designated Officer** which shall set forth the number of cases handled by the RIO's office during the previous academic year and their outcomes, along with information on the educational and other activities of the RIO's office during that academic year.
2. The **Provost Designated Officer** shall evaluate the performance of the RIO biennially, pursuant to criteria established by the **Provost Designated Officer**.

#### III. ADVISORY COMMITTEE TO THE RIO

The College-level Research Integrity Officers shall serve as an advisory resource for the RIO on issues relating to ~~research~~ **Scholarly m**Misconduct and ~~these Procedures~~ **this policy**.

II.9-00(A) University of Maryland Policy on Suspension of Faculty

(Approved by the President, September 23, 2007)

**I. General**

(a) The Provost may suspend a faculty member for willful neglect of duty, incompetence, moral turpitude, or scholarly or professional misconduct.  
~~Adequate cause for suspension will be related directly and substantially to the service of a faculty member in his or her professional capacity as teacher and researcher.~~

(b) The following procedures constitute the exclusive avenue for appeal and review of suspension decisions within the University of Maryland.

**II. Scope and Definitions**

For the purpose of these suspension procedures, the following definitions<sup>1</sup> shall apply.

(a) "Faculty member" may include any person holding faculty appointments at the ranks set forth in Paragraphs I.A. through I.E. of the University Policy II-1.00(A) (University of Maryland Policy on Appointment, Promotion, and Tenure of Faculty).

(b) "Unit head" shall refer to a department Chair, Dean, or any University administrator ~~having~~ **who has** a supervisory relationship to a faculty member who is being considered for suspension, **including the Responsible Administrator designated in Scholarly Misconduct proceedings as described in the University of Maryland Policy and Procedures Concerning Scholarly Misconduct (III-1.10[A]).** ~~In cases of scholarly misconduct, the chair of the Committee of Investigation constituted under University of Maryland Procedures for Scholarly Misconduct III-1.10(A) shall act in lieu of the unit head.~~ In exceptional circumstances, such as when the appropriate unit head or committee chair may have a conflict of interest, or waiting for action by a unit head or chair would result in unreasonable delays, the Provost may appoint a faculty member or other academic administrator to investigate any allegations of serious misconduct and, if warranted, carry out the responsibilities of the unit head as described in the remainder of this policy.

(c) Unless otherwise specified, "day" shall mean ~~calendar~~ **business** days, excluding days the University is officially closed.

**III. Recusal of the Provost**

The Provost may recuse himself or herself in cases where he or she concludes that he or she may have a real or apparent conflict of interest with either the faculty member or other persons directly involved in the events or matters under consideration.

Should the Provost recuse himself or herself, the President may appoint a dean or other University academic administrator to carry out the responsibilities of the Provost, as described in the remainder of this policy.

#### ~~IV. Initiation of Suspension in Cases of Scholarly Misconduct~~

~~(a) The University of Maryland Procedures for Scholarly Misconduct (III-1.10(A)) provide comprehensive procedures for institutional inquiry, investigation, determination and resolution of allegations of scholarly misconduct by faculty in cases of fabrication, falsification, and plagiarism in proposing, performing, or reviewing research, or in reporting research and scholarship. The Scholarly Misconduct Procedures are the exclusive procedures for determining matters within their scope, and a final determination under these procedures shall be controlling and not subject to challenge or review by any person or board under this Faculty Suspension Policy.~~

~~(b) Under said procedures III-1.10(A) a Committee of Investigation may report a finding of scholarly misconduct to the Provost and recommend the sanction of suspension. Should the Provost accept this finding and recommendation, he or she shall initiate suspension proceedings under Paragraphs VI-XIV, below, with the proviso that the proceedings shall deal only with the appropriateness of the penalty.~~

#### **IV. Initiation of Suspension Proceedings** ~~in Cases of Willful Neglect of Duty, Moral Turpitude, Incompetence, or Professional Misconduct~~

**Suspension proceedings may be initiated by** ~~For cases of willful neglect of duty, moral turpitude, incompetence, or professional misconduct,~~ a faculty member's unit head. **The unit head** may request that the Provost suspend any faculty member covered by this policy. Such a request must be presented in writing and include a description of the specific events or circumstances that warrant the suspension, as well as the reasons for the use of suspension as a remedy instead of less severe measures. The faculty member shall be informed of this process and be provided with a copy of this request prior to the initial finding of the Provost set forth in Paragraph VI, below.

#### **VI. Initial Finding of the Provost**

(a) The Provost or the President's appointee has the primary responsibility for reviewing the charges, assessing the quality of the evidence, and determining if suspension is the appropriate remedy. The Provost shall deny any request which, in his or her professional judgment, is not supported by sufficient and reliable evidence, or where the alleged misconduct is not so severe as to warrant such a serious action.

(b) If the Provost concludes that on the facts known to him or her suspension would be appropriate, then the Provost shall present a Notice of Initial Finding to the faculty member. The notice shall set forth the specific charges, the length of suspension, whether the suspension shall be with or without pay, limitations on physical access to University facilities and participation in research activities, and such other matters as the Provost deems relevant to the circumstances.

(c) Absent exceptional circumstances, a suspension will be for a period of no more than one calendar year for the same incident of misconduct, incompetence, moral turpitude, or willful neglect.

(d) If the Provost finds that suspension is not warranted, both **the** faculty member and the unit head shall be informed of this decision in writing.

#### **VII. Preliminary Response Meeting**

A faculty member who is to be suspended shall be offered an opportunity to ~~have a preliminary meeting with the Provost~~ **provide a response in writing**. The ~~request for a preliminary meeting should be made in writing by the faculty member and~~ **response should be** received by the Provost within ten (10) days from the date the faculty member received the Notice of Initial Finding. The purpose of this ~~meeting response~~ is to present the faculty member with an opportunity to challenge the specific charges and specifications contained in the Notice of Initial Finding, and the sanction of suspension under the circumstances, including any without-pay status. The faculty member may also use the ~~meeting response~~ to suggest alternatives to the sanctions contained in the Notice of Initial Finding.

#### **VIII. Decision of the Provost**

(a) Upon careful consideration of any arguments and evidence provided by the faculty member, the Provost shall determine (a) which, if any, charges or specifications stated in the Notice of Initial Finding shall be dismissed, and (b) whether an alternative sanction is more appropriate under the totality of circumstances known to the Provost. The decision of the Provost shall be reported in writing both to the faculty member and to the unit head. The decision shall include a determination of the length of any suspension and whether it should be with or without pay.

(b) The effective date of any suspension shall be the date of the report of the Provost's decision, unless otherwise established therein.

#### ~~IX.~~ **VIII. Request for a Formal Hearing**

(a) The faculty member shall be accorded an opportunity to appeal the decision of the Provost to a three-member Faculty Board of Review.

(b) Upon receipt of a decision by the Provost, the faculty member may request a formal hearing. The request shall be **in** writing and received by the Provost within ten (10) days from the date the faculty member received the decision.

(c) Except by mutual agreement of the faculty member and the Provost, the hearing shall be held no sooner than fifteen (15) days, nor later than thirty (30) days after receipt of the faculty member's request for a hearing.

#### **IX. Appointment of the Faculty Board of Review**

Upon receipt of a request for a formal hearing, the Provost shall ask the Chair of the

University Senate, in consultation with the elected faculty members of the Senate Executive Committee, to empanel an impartial three-member Faculty Board of Review. The board shall consist of tenured University faculty who do not have a close professional or personal relationship to the faculty member, the unit head or any other person having a direct involvement in the matters under consideration. The Senate Chair shall provide a list of seven potential board members to both the faculty member and the unit head at least five (5) days before the start of the formal hearing. Both the unit head or committee chair and the faculty member shall be allowed to exclude up to two potential board members without stated cause if the requests are provided to the Senate Chair in writing two (2) days prior to the start of the hearing. The Senate Chair shall appoint the board from among the remaining potential members.

### **X-I. Conduct of the Formal Hearing**

The following matters pertain to the hearing under this paragraph:

- (a) A University administrative hearing is not a judicial proceeding. It is not the same as a criminal or civil trial and is not governed by all the conventions of courtroom advocacy.
- (b) The purpose of a hearing shall be to determine if the charges alleged against the faculty member are true in whole or in part and, if so, whether suspension would ~~be~~ a reasonable sanction under the circumstances.
- (c) The burden shall be on the unit head to demonstrate by a preponderance of the evidence that the misconduct, incompetence, or neglect alleged as grounds for suspension occurred and that suspension is a reasonable sanction under the circumstances; provided, however, when the grounds of suspension is scholarly misconduct, the prior determination of the **Investigation** Committee ~~of Investigation~~ as to the existence or non-existence of such misconduct is determinative, and not open to further challenge or review under these suspension procedures.
- (d) The hearing shall be closed to the public. Prospective witnesses, other than the faculty member and the unit head and their respective representatives, shall be excluded, except to testify.
- (e) The Faculty Board of Review shall elect a chair and may organize itself in the way it thinks most efficient.
- (f) The chair shall exercise control over the proceedings to avoid unnecessary delay and to achieve the orderly completion of the hearing. Reasonable measures may be taken to maintain control over the proceedings to elicit relevant facts, to maintain civility, to prevent disruptions or harassment of participants, and to ensure that the interests of both parties and of fairness are preserved. This may include defining the issues (if the parties disagree), regulating the timing, order, length and manner of presentations, motions, argument, testimony and objections,

declaring recesses in the proceedings, and taking other appropriate actions. The chair's decision in these matters shall be final.

- (g) The University's Office of **General Counsel** ~~Legal Affairs~~ will advise the Faculty Board of Review on legal and procedural questions that may arise and may be present if requested.
- (h) The chair shall cause a record to be made of the hearing, including a transcript of the proceedings and all documents accepted for consideration.
- (i) The formal rules of evidence shall not apply. The chair shall ensure that the rules of confidentiality and privilege are followed, but shall otherwise admit all matters into evidence which reasonable persons would accept as having probative value in the conduct of their affairs. Unduly repetitious or irrelevant evidence may be excluded.
- (j) The faculty member and the unit head will each have an opportunity to make opening and closing statements, present written evidence, examine and cross examine witnesses, offer personal testimony, make objections, and file motions, including motions raising issues of substantive or procedural due process. The Faculty Board of Review may question the faculty member, the unit head, and the witnesses. Matters pertaining to timeliness, conflict, standing, grievability, or authority of the chair should be raised by motion at the earliest possible point in the proceedings.
- (k) It is the personal responsibility of the faculty member and of the unit head, respectively, to produce in a timely manner the evidence they each wish considered, including documents and witnesses. Absent extraordinary circumstances, the hearing will not be delayed to obtain the presence of a witness or document. In advance of the hearing, either party may request that the chair contact a person to be a witness or produce a document. The request should be in writing and contain a concise proffer of the expected testimony. If the chair deems the request reasonable and the evidence relevant, the individual may be asked to appear or produce the item, but his or her actions shall be voluntary.
- (l) At the conclusion of the hearing, the board shall meet privately to reach a conclusion. The decision of a Faculty Board of Review shall be by majority vote. A case shall be judged solely on the evidence in the record, although notice may be taken of University matters within the common knowledge and experience of campus faculty, including published policies of the University System of Maryland and the University of Maryland. A written report shall be made to the Provost in the form of findings and recommendations. The findings shall address each charge and provide the reasons therefore. The findings

shall also include a determination whether suspension would be a reasonable sanction under the circumstances. If warranted, an alternate or modified sanction may be recommended. Both the unit head and the faculty member will be provided a copy of the Faculty Board's findings and recommendations, as well as a written minority report in cases where the finding is not unanimous.

- (m) The Provost shall review the findings and recommendations of the Faculty Board of Review. If the Provost accepts the findings and recommendations of the Board, he or she will so inform the faculty member and the unit head. This will constitute the last action of the University and conclude the matter; provided, however, in the event that the final action of the Provost is to maintain the suspension of the faculty member or to take an action different than that recommended by the Faculty Board of Review, the faculty member may appeal the Provost's decision to the President in accordance with Paragraph XII ("Final Appeal"), below.

## **XII. Final Appeal**

If the decision of the Provost is to suspend the faculty member, or if the Provost does not accept the recommendation of the Faculty Board of Review, then the faculty member may appeal to the President. Upon receipt of the decision of the Provost, the faculty member may request a meeting with the President. The request shall be in writing and received by the President within ten (10) days from receipt of the Provost's decision. The meeting shall occur at the earliest possible time, but no later than thirty (30) days following the receipt of the request for an appeal. The following matters pertain to the appeal:

- (a) The purpose of the meeting is to afford the faculty member an opportunity to challenge the decision of the Provost.
- (b) The appeal shall be limited to oral argument, which may be augmented by written briefs submitted before the meeting. Arguments and facts not previously presented to the Faculty Board of Review will not be considered on appeal. The President will have access to the record of the formal hearing, including the findings and recommendations of the Faculty Board of Review and, if applicable, any minority report resulting from these findings.
- (c) The Provost may elect to attend the meeting and respond as appropriate.
- (d) The University Office of **General Counsel** ~~Legal Affairs~~ will advise the President on legal and procedural questions that may arise and may be present if requested.
- (e) The decision of the President shall be final and shall be communicated in writing to the Provost, the unit head, and the faculty member.



### **XIII. Time Requirements**

Time requirements established in Paragraphs **VI**, ~~VII~~, VIII, IX, ~~X~~, and ~~XII~~ above are an important element in these suspension procedures and are considered necessary to the orderly administration of the academic and financial needs of the University and its faculty. Unless otherwise mutually agreed in advance between the faculty member and the Provost, strict adherence to them is a condition of review and appeal under these procedures.

### **XIII~~V~~. Right to Advocate ~~Counsel~~**

In all proceedings and appeals under these suspension procedures, the faculty member and the unit head may each elect to be ~~represented or~~ assisted by **an advocate** ~~a person~~ of their choice, including legal counsel, provided such person agrees and is available without unreasonable delay.

**Appendix 1: Clean Version of University of Maryland Policy and Procedures Concerning  
Scholarly Misconduct**



**III-1.10(A) UNIVERSITY OF MARYLAND POLICY AND PROCEDURES  
CONCERNING SCHOLARLY MISCONDUCT**

(Approved by the President August 1, 1991; Revised May 11, 2000; Revised May 13, 2008; Technical Amendment April 6, 2009; Approved on an Interim basis June 29, 2017)

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## INTRODUCTION

Scholarly integrity is the responsibility of the entire academic community. All members of the university community—students, staff, faculty and administrators—share responsibility for developing and maintaining standards to promote honesty, accuracy, and objectivity in scholarly work and for reporting abuse of these standards. Misconduct in carrying out academic activities undermines the integrity of the educational system and the scholarly enterprise, and erodes the public trust in the university community. The responsibility to prevent and report misconduct, however, ought not create an atmosphere that discourages the openness and creativity that are vital to scholarship.

Institutions that apply for or receive federal funds for research are required by law to share responsibility for the integrity of the research process (e.g., Public Health Service Policies on Research Misconduct, 42 CFR Part 93). The University of Maryland (University) voluntarily applies the common federal standards for integrity in research to all University scholarship regardless of funding source. Both the University and its personnel have a duty to ensure the integrity of research and research training by assuming primary responsibility for responding to allegations of Scholarly Misconduct.

## APPLICABILITY

This policy applies to scholarly work, which includes research and other creative activity, research training, applications and proposals, and related activity containing a research component, performed at the University by any person, including faculty, staff, students, visitors and others; or performed with the use of University resources; or performed elsewhere, by a person acting under the auspices of the University.

This policy does not apply to various types of professional and/or instructional misconduct, including misconduct related to the individual's role as an instructor or administrator, or misrepresentations for personal or professional advancement. These types of misconduct may be addressed in separate University or University System of Maryland processes or policies.

Allegations of Scholarly Misconduct, whether the scholarly work is sponsored or not, will be reviewed using this policy, subject to the limitations below:

- A. This policy does not supersede other University System of Maryland or University policies and procedures, such as those addressing authorship disputes, suspected fiscal irregularity, conflict of interest, and unethical conduct of research involving human or animal subjects. Should violations of other University policies be found during the review of a Scholarly Misconduct Allegation, the Research Integrity Officer (RIO) will make referrals to the appropriate office or officer and work to coordinate any concurrent or successive investigations.
- B. If an Allegation of Scholarly Misconduct involves a student, the RIO, in consultation with the Director of Student Conduct will determine whether this policy, the *Code of Academic Integrity*, or the *Code of Student Conduct* will apply. Allegations of misconduct by students in academic exercises, such as examinations and course requirements, are generally handled pursuant to the University's *Code of Academic Integrity*.

- C. All other instances of research misconduct, whether the research is sponsored or not, will follow this policy.

## **POLICY**

It is the policy of the University:

- A. To maintain high standards of honesty, accuracy, and objectivity in scholarly work, to prevent Scholarly Misconduct where possible, and to evaluate and to resolve promptly and fairly instances of alleged or apparent Scholarly Misconduct.
- B. To take appropriate remedial and disciplinary action in response to findings of Scholarly Misconduct.

## **I. DEFINITIONS**

**“Abuse of Confidentiality/Misappropriation of Ideas”** means the improper use or appropriation of information obtained from scholarly exchanges and other types of confidential access, such as from review of grant applications or manuscripts; service on peer review panels, editorial boards, or University committees; and information obtained from publishers, foundations, and organizations that run conferences or engage in other scholarly activities.

**“Allegation”** means a disclosure of possible Scholarly Misconduct by a Respondent to the RIO by any means of communication. An Allegation should include sufficient detail, and supporting evidence, if available, to permit a Preliminary Assessment by the RIO under this policy.

**“Bad Faith”** means a material and demonstrable failure to meet the standards for Good Faith set forth herein as a Complainant, a witness, an Inquiry Committee member, an Investigation Committee member, the Responsible Administrator, the Designated Officer, 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”** means a person who makes an Allegation. A Complainant need not be affiliated with the University.

**“Complaint”** means a formal, written communication to the RIO that contains an Allegation of Scholarly Misconduct.

**“Conflict of Interest”** means 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.

**“Counsel”** means lay or legal counsel secured by a Complainant or Respondent to serve as an advisor during the Misconduct Proceedings, at the party’s own initiation and expense. Counsel may provide advice and consultation to the party. If necessary, a party may request a recess during the proceedings in order to speak privately with Counsel. Counsel may not be an active participant; Counsel may not speak for the



parties in person or in writing, serve as a witness, provide information or documentation in the case, cause delay, communicate on behalf of the party, or otherwise interfere with the process.

**“Creative Activities”** means the preparation or creation of computer programs, websites, motion pictures, sound recordings, projects for competitions, and literary, pictorial, musical, dramatic, audiovisual, choreographic, sculptural, architectural, and graphic works of any kind by (1) a faculty member or other employee of the University as part of their 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, but not limited to, a master’s or doctoral thesis).

**“Deliberate Material Failure to Comply with Federal, State, or University Requirements Affecting Research”** means violations involving the use of funds or resources; data management; care of animals; human subjects; investigational drugs; recombinant products; new devices; radioactive, biologic or chemical materials; or the health and safety of individuals or the environment.

**“Deliberate Misrepresentation of Qualifications”** means misrepresentation of experience or research accomplishments to advance a research program or to obtain external funding.

**“Designated Officer”** means a University official responsible for implementing and overseeing this policy consistent with applicable laws. The Senior Vice President and Provost shall appoint the Designated Officer.

**“Evidence”** means any document, tangible item, or testimony that is received, or that may be offered, during a Misconduct Proceeding to prove or disprove the existence of a fact relevant to the Allegation at issue in that Misconduct Proceeding. Depending on the Allegation, Evidence could include, but is not limited to:

- proposals, grant applications, and comments thereon;
- relevant Research data and related records;
- laboratory notebooks and computer files;
- telephone logs and memos of calls;
- correspondence and electronic communications;
- manuscripts, posters, publications, and recordings of oral presentations and interviews.

**“Fabrication”** means intentionally generating Research data or results that are fictitious in some regard, and recording or reporting these data or results as being genuine.

**“Falsification”** means manipulating Research materials, equipment, or processes,

or changing or omitting Research data or results in a way that deviates from common practice in the field, such that Research purposely is not accurately represented in the Research Record.

**“Good Faith”** means having a belief in the truth of one’s Allegation or testimony that a reasonable person in the individual’s position could have based on the information known to the individual at the time. An Allegation or cooperation with a Misconduct Proceeding is not in Good Faith if made or done with a knowing or reckless disregard for information that would negate the Allegation or testimony.

**“Improprieties of Authorship”** means the improper assignment of credit that is not in accordance with accepted standards in the relevant discipline, such as inclusion of individuals as authors who have not made a substantial contribution to the published work, exclusion of individuals as authors who have made a substantial contribution to the published work, or submission of multi-authored publications without the concurrence of all authors.

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

**“Inquiry Committee”** means a group of at least three persons appointed by the RIO to conduct an Inquiry.

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

**“Investigation Committee”** means a group of at least three persons appointed by the RIO to conduct an Investigation.

**“Misappropriation of Funds or Resources”** means the misuse of funds or resources intended to support research activities identified in the context of a Scholarly Misconduct investigation.

**“Misconduct Proceeding”** means any proceeding under this policy related to the review of an Allegation of Scholarly Misconduct, including Preliminary Assessments, Inquiries, Investigations, and internal appeals.

**“Misconduct Proceeding Records”** means: (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 and final (not draft) documents produced in the course of preparing that report, including any other documentation of a decision that an Investigation is not warranted; (5) the Investigation report and all records (other than drafts of the Investigation report) in support of that

report, including the transcripts of each interview or hearing conducted during an Investigation; and (6) the complete record of an internal appeal (see Section IX below) from a finding of Scholarly Misconduct.

**“Plagiarism”** means the representation of another person’s ideas, processes, results, words, images, or other creative works as one’s own without giving appropriate credit.

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

**“Preponderance of the Evidence”** means that based on the totality of the Evidence, it is more likely than not that a violation of this policy occurred.

**“Questionable Research Practices”** means practices that do not constitute Scholarly Misconduct or Unacceptable Research Practices but that require attention because they may erode confidence in the integrity of the Research or Creative Activities.

**“Research”** means formal investigation conducted for the purpose of producing or contributing to generalizable knowledge, and the reporting thereof, by (1) a faculty member or other employee of the University as part of their 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, but not limited to, a master’s or doctoral thesis).

**“Research Record”** means the record of data or results from scholarly inquiry, including, but not limited to, research proposals, laboratory records (in any format), progress reports, abstracts, theses, oral presentations, internal reports, journal articles, books, 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”** means a person who is the subject of an Allegation. 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 Scholarly Misconduct allegedly occurred.

**“Responsible Administrator”** means the unit administrator who has most immediate responsibility for the Respondent and who is not disqualified from serving as Responsible Administrator by a Conflict of Interest. The RIO shall identify the Responsible Administrator. If the Responsible Administrator is a dean or other higher-level administrator, the Responsible Administrator may designate a subordinate to act as Responsible Administrator. If the Respondent is a student, the Responsible Administrator shall be the chairperson or appropriate unit head of the department or program with which the student is affiliated. If an Allegation involves multiple Respondents, the RIO shall identify an appropriate individual or individuals to serve as the Responsible Administrator or Administrators.

**“Retaliation”** means an adverse action taken against an individual who has, in Good Faith, participated in a Misconduct Proceeding (as Complainant, witness, Inquiry Committee member, Investigation Committee member, Counsel, Responsible Administrator, Designated Officer, or RIO) or otherwise cooperated in the review of an Allegation under this policy, where there is a clear 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.

**“RIO”** means the University’s Research Integrity Officer. The Designated Officer will appoint the RIO.

**“Scholarly Misconduct”** means Fabrication, Falsification, Plagiarism, or any other practice that seriously deviates from practices commonly accepted in the discipline or in the academic and research communities. Scholarly Misconduct may take many forms, including, but not limited to, Improprieties of Authorship; Abuse of Confidentiality/Misappropriation of Ideas; Deliberate Misrepresentation of Qualifications; Deliberate Material Failure to Comply with Federal, State, or University Requirements Affecting Research; and Violation of Generally Accepted Research Practices. Other common terms such as research fraud, scientific misconduct, or research misconduct are subsumed within Scholarly Misconduct for the purposes of this policy. Scholarly Misconduct does not include appropriate practices in the Creative Arts insofar as they accord with accepted standards in the relevant discipline. Scholarly Misconduct does not include unintentional error or differences in the interpretation or judgment of Research data or results that can be reasonably substantiated by the data or results.

**“Self-Plagiarism”** means the representation of the same materials as original in more than one publication. Self-Plagiarism can include reuse of one’s own words, images, data, or other products of Research without appropriate attribution and/or, in the case in which copyright is held by another person or organization, without receiving appropriate permission. When not in accordance with accepted standards in the relevant discipline, Self-Plagiarism may constitute Scholarly Misconduct.

**“Unacceptable Research Practices”** means practices that do not constitute Scholarly 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 or Creative Activities.

## **II. GENERAL**

- a. Anonymous Allegations.** The University shall review anonymous Allegations under this policy.
- b. Confidentiality.**
  - (1) Limited Disclosure of Allegation/Misconduct Proceedings. To the extent

possible consistent with a fair and thorough review of an Allegation, disclosure of an Allegation and the resulting Misconduct Proceedings should be limited to those who need to know about them. In amplification, and not in limitation, of the foregoing:

- (A) except as otherwise permitted or required by this policy, or as required by law, members of Inquiry Committees and Investigation Committees, the Responsible Administrator, the Designated Officer, the RIO, and University administrators involved in the review of an Allegation under this policy shall make diligent efforts to preserve the confidentiality of the Allegation and resulting Misconduct Proceedings out of respect for the privacy of those involved, especially the Respondent; and
  - (B) if an Allegation results in an Investigation, the RIO may confidentially advise any person or entity that has plans to publish or disseminate the results of the Research or Creative Activities to which the Allegation relates of the pending Investigation.
- (2) **Complainant Identity.** The University shall make diligent efforts to honor the request of any Complainant that their identity be kept confidential during the University's review of the Allegation under this policy.
  - (3) **Breaches of Confidentiality.** The RIO shall be informed immediately of breaches of confidentiality. The RIO will investigate the breach of confidentiality and refer the matter to the appropriate unit administrator for review and such further action, if any, as the unit administrator may deem appropriate.
- c. **Cooperation.** To preserve the integrity of the environment for Research and Creative Activities, members of the University community are expected to cooperate in the review of Allegations under this policy (for example, by providing documents, materials, and testimony, if requested to do so by the RIO).
  - d. **Location and Timeframe of Alleged Scholarly Misconduct.** An Allegation may be reviewed by the University under this policy no matter where or when the Scholarly Misconduct allegedly occurred.
  - e. **Events Requiring Immediate Action.** If, at any stage of this policy, the RIO obtains reasonable information about
    - (1) a possible criminal violation;
    - (2) an immediate health hazard or other imminent risk of danger to public health or safety or to experimental subjects;
    - (3) the need to take immediate action to protect the funds or equipment of any governmental or other sponsor of Research or Creative Activities, or to

assure compliance with the terms of a contract sponsoring Research or Creative Activities;

- (4) the need to take immediate action to protect any Complainant, Respondent, witness, member of an Inquiry Committee or an Investigation Committee, or other person involved in any Misconduct Proceeding;
- (5) the need to take immediate action to prevent the loss, destruction, or adulteration of any Evidence;
- (6) the need to take immediate action to prevent or stop an imminent or continuing violation of an applicable law, regulation, or other governmental requirement or of a University rule or policy; or
- (7) the probable public disclosure of an Allegation or any Misconduct Proceeding;

then the following shall occur:

The RIO shall immediately notify the Designated Officer, the Office of General Counsel, and, if appropriate, the pertinent government official or sponsor of the Research or Creative Activities, and, following consultation with the Office of General Counsel, the RIO shall promptly make recommendations to the Designated Officer as to responsive actions.

Notwithstanding any other provision of this policy, appropriate University administrators shall have authority to take any actions they deem necessary or appropriate to safeguard University personnel, other participants in any Misconduct Proceeding, public health or safety, experimental subjects, sponsors' funds or equipment, Evidence, or the integrity of the research environment. That any such action is taken shall not be deemed to predetermine any finding or conclusion from the University's review of an Allegation under this policy, but any information arising from any such action may constitute Evidence.

- f. Notice.** Any notice or other document issued pursuant to this policy shall be in writing and shall include an explanation of any decision or opinion stated therein. The RIO shall provide the Respondent copies of all such documents in a timely manner.
- g. Interpretation.**
  - (1) Time Periods. Unless otherwise specified in this policy:
    - (A) the failure to exercise any right granted under this policy within the stated time period shall constitute a waiver of that right;
    - (B) references to days in this policy shall mean calendar days; and

- (C) the RIO may extend timelines and deadlines specified in the policy for good cause, through written notice to all parties.
- (2) Plural Usage. The text of this policy generally assumes a single Complainant, Respondent, witness, and Allegation. Where there are multiple Complainants, Respondents, witnesses, or Allegations, this policy shall be construed accordingly.

**h. Objections.**

- (1) Both the Respondent and the Complainant may challenge the RIO's appointment of an Inquiry Committee member or an Investigation Committee member, but only on the basis of asserted Conflict of Interest on the part of the Inquiry Committee member or Investigation Committee member.

A Respondent or Complainant who wishes to file a challenge must do so in writing to the RIO, with accompanying rationale, within five (5) days of receiving notice of the membership of the committee. The RIO is expected to respond to the challenge in writing within five (5) days, either accepting it and taking appropriate action, or rejecting it for stated cause.

- (2) Other Objections and Complaints. If the Complainant or Respondent objects to any decision, procedural or substantive, made during the current or any previous Misconduct Proceeding in the review of the Allegation, they may raise that objection:
  - (A) with the RIO during the Preliminary Assessment;
  - (B) with the Inquiry Committee during the Inquiry;
  - (C) with the Investigation Committee during the Investigation; and
  - (D) with the Provost during an internal appeal under Section IX below.

**i. Limitations.**

Final procedural and substantive determinations made under this policy by the RIO, the Designated Officer, a Responsible Administrator, an Inquiry Committee, an Investigation Committee, or the Provost cannot be challenged or overturned under any other University policy or procedure.

**III. ROLE OF THE RESEARCH INTEGRITY OFFICER (RIO)**

The RIO shall coordinate implementation of this policy and shall be responsible for its fair and impartial administration. The RIO shall not be an advocate for the Complainant or the Respondent.

The RIO shall serve as an advisor to Inquiry Committees and Investigation Committees.

If so requested, the RIO shall provide logistical support, recruit expert witnesses, and arrange for legal advice to the committees by the Office of General Counsel.

When an Allegation involves Research or Creative Activities supported by a federal funding source, the RIO shall see that the University meets all legal requirements to apprise it of the status of an Inquiry or an Investigation into that Allegation. The RIO also shall report regularly to the Designated Officer on the status of each Inquiry and each Investigation.

The RIO shall identify the Responsible Administrator. The RIO also shall disqualify any Responsible Administrator, and any potential or sitting member of an Inquiry Committee or Investigation Committee, if the RIO determines that such person has a Conflict of Interest before or during the Misconduct Proceedings.

The RIO shall take all reasonable and practical steps to obtain custody of all the Evidence needed to conduct the review of an Allegation under this policy, inventory the Evidence, and sequester it in a secure manner. The RIO may take custody of copies of the Evidence on instruments shared by a number of users, so long as those copies are substantially equivalent to the evidentiary value of the original Evidence. The RIO will give the Respondent copies of, or reasonable supervised access to, the Evidence. The RIO and the RIO's administrative staff will make every effort to ensure that the sequestration of Evidence does not impede the ongoing scholarly activities of faculty, staff, and/or students who are not impacted by the Allegation, unless such activities have been halted or restricted as a result of immediate actions taken under II(e) above.

Misconduct Proceeding Records will be kept in a secure manner, accessible only to the RIO's administrative staff. In cases that terminate following a Preliminary Assessment, the records related to the Preliminary Assessment will be kept for three (3) years. For all other cases, Misconduct Proceeding Records will be kept for at least seven (7) years after the completion of the Misconduct Proceedings to which they relate.

Other RIO responsibilities are set forth elsewhere in this policy.

Provisions regarding the designation, selection, reporting responsibilities, and evaluation of the RIO are set forth in the Appendix.

#### **IV. OTHER INTERNAL OR EXTERNAL PROCEEDINGS**

The conduct which forms the basis for an Allegation may also involve possible violation of other University policies or the policies of other institutions, and of external laws and regulations, and may occasion other internal or external adjudicatory proceedings. The following shall govern the handling and sequencing of such proceedings.

- a. Other Institution's Review.** Another educational or research institution may have the right to review the same Allegation (or a related Allegation) against the same Respondent. In such an event, the RIO shall consult with their counterpart at the other institution to determine whether the University or the other institution is best able to review the Allegation. If the RIO determines that the other institution is best able to review the Allegation, the RIO shall so advise the Designated Officer, who



has authority to stay or terminate the University's review of the Allegation based on the review conducted at the other institution, as set forth in Section IV(f) and Section V(d) below. The University and the other institution may also agree to conduct a joint review of the Allegation.

- b. Research Collaborator.** In the event of an Allegation involving Research or Creative Activities undertaken by a Respondent in collaboration with a colleague at another educational or research institution, the RIO shall advise their counterpart at the other institution confidentially of the Allegation, and ascertain if a similar allegation has been made against the collaborator. If it has, the University, through the RIO, may attempt to cooperate and share information confidentially with the other institution in their respective reviews of the Allegation and of the related allegation involving the collaborator. The University and the other institution may also agree to conduct a joint review of the Allegation and the related Allegation involving the collaborator.
- c. Government Investigation.** Certain federal funding sources have the option, at any stage in this policy, to initiate an independent investigation of an Allegation involving Research or Creative Activities supported by the funding source. In the event a federal funding source initiates such an investigation, the RIO shall consult the federal funding source regarding its investigation and shall advise the Designated Officer whether the University should suspend its review of the Allegation during the federal funding source's investigation, which the Designated Officer shall have authority to do, as set forth in Section IV(f) below.
- d. Criminal Process.** In general, University review of an Allegation under this policy may occur in parallel with criminal processes. If an Allegation is also the subject of a criminal investigation or proceeding and the pertinent governmental authority advises the University that the University's review of the Allegation under this policy may prejudice or interfere with that investigation or proceeding, the Designated Officer shall have authority to stay any Misconduct Proceeding until the criminal investigation or proceeding is complete.
- e. Civil Litigation.** The existence of civil litigation involving the University may necessitate staying a Misconduct Proceeding. The Designated Officer shall make such decisions on a case-by-case basis and promptly report them to the RIO.
- f. Designated Officer Stay of Proceedings.** The Designated Officer shall have authority to stay any Misconduct Proceeding if, following consultation with the Office of the General Counsel and the RIO, the Designated Officer determines that other University procedures mandated by law must be completed prior to the University's further review of an Allegation under this policy. Such governmentally mandated procedures may involve various forms of regulatory action (for example, the removal or clean-up of radioactive or other hazardous materials).
- g. Precedence of Proceedings.** Subject to Section IV(f) above and to the University's right to take interim action under any University policy or contract, review of an Allegation under this policy shall precede all other internal University proceedings

against a Respondent that relate to or arise out of the alleged Scholarly Misconduct, including, without being limited to, disciplinary, non-discrimination proceedings with the exception of Title IX proceedings, and grievance proceedings.

## **V. PROCEDURES FOR CONDUCT OF MISCONDUCT PROCEEDINGS – GENERAL**

- a. Determination of Procedures.** Those charged with conducting a Misconduct Proceeding shall determine the procedures that will be followed, provided that:
- (1) the procedures they adopt shall be those they deem best suited to achieve a fair and equitable review of the Allegation;
  - (2) the procedures they adopt shall reflect a spirit of mutual respect and collegiality, and may, therefore, be as informal as they deem appropriate under the circumstances;
  - (3) in Preliminary Assessments and Inquiries, testimony shall be obtained from witnesses through private interviews rather than through a hearing;
  - (4) in Investigations, the Investigation Committee may choose to obtain testimony from witnesses through a series of private interviews with witnesses, or at a hearing at which the Complainant and the Respondent shall be invited to be present, provided that the Respondent may, within five (5) days of receiving a notice that the Investigation Committee has decided to conduct private interviews, deliver a notice to the RIO requiring that a hearing be conducted instead of such interviews;
  - (5) at a hearing, the Respondent and the Complainant shall have the opportunity to raise questions for the Investigation Committee to pose to each witness about the testimony of that witness and the Allegation;
  - (6) may proceed even when a Complainant declines to appear to give testimony, if the Investigation Committee determines there is credible Evidence of possible Scholarly Misconduct by the Respondent to justify proceeding with the hearing apart from the Complainant's Allegation;
  - (7) the Respondent shall have the right to be advised by Counsel in all Misconduct Proceedings;
  - (8) the Complainant shall have the right to be advised by Counsel in all Misconduct Proceedings;
  - (9) in all Preliminary Assessments, Inquiries, and Investigations, the Respondent shall have the right to present Evidence and to identify persons who might have Evidence about the Allegation;
  - (10) formal rules of evidence shall not apply;

- (11) the Complainant and the Respondent shall have the right to review documents, reports, and other Evidence submitted in support of their testimony, and the Complainant and the Respondent may provide or be asked to provide corrections of misrepresentations and errors, along with supporting documentation, and may supply additional documentation in response to the Evidence;
- (12) each Misconduct Proceeding shall be conducted confidentially and in private except that, in the event of a hearing, the Investigation Committee may decide that it will be open if requested by the Respondent and if permissible under applicable regulations; and
- (13) to the extent that a published regulation of a federal funding source requires a specific procedural element in the review and adjudication of an Allegation concerning a proposal to or an award from that federal funding source, that procedural element shall be included in the procedures adopted.

At the start of each Misconduct Proceeding, the RIO shall notify the Complainant and the Respondent of the procedures that will be followed during that Misconduct Proceeding.

- b. General Counsel Advice.** The Office of General Counsel shall, when so requested, provide legal advice regarding the implementation of this policy and other aspects of the University's review of an Allegation under this policy to the RIO, the Designated Officer, the Responsible Administrator, the Inquiry Committee, the Investigation Committee, the individual hearing an appeal, and the Provost.
- c. Respondent Questions.** The RIO shall contact the Respondent at the start of each Misconduct Proceeding and attempt to answer any questions about that Misconduct Proceeding.
- d. Admission of Scholarly Misconduct.** The Designated Officer shall have authority to terminate the University's review of any Allegation under the Procedures upon the admission by the Respondent that Scholarly Misconduct occurred and that the Respondent was responsible for it. The Designated Officer should consider whether the termination of the review of the Allegation would prejudice the University's review of another Allegation against that Respondent or against a different Respondent or the University's ability to assess the extent and consequences of the Scholarly Misconduct and what action should be taken in response to it.
- e. Records to Agency.** When the alleged Scholarly Misconduct involves Research or Creative Activity supported by a federal funding source, the RIO shall make available to its authorized personnel any Misconduct Proceeding Records that such personnel request.
- f. Additional Respondents.** If, during the course of any Misconduct Proceeding, additional Respondents are identified, they shall be

- (1) Notified immediately;
- (2) Provided an opportunity to respond in writing to the notification within fourteen (14) days of receiving notice; and
- (3) Incorporated into the ongoing investigation from the point of notification, unless the RIO otherwise determines that a separate investigation is warranted.

## VI. ALLEGATIONS OF SCHOLARLY MISCONDUCT AND PRELIMINARY ASSESSMENTS

- a. Allegation of Scholarly Misconduct.** Any member of the University community or other person who wishes to make an Allegation shall contact the RIO. The Allegation should include sufficient detail and documentation to facilitate the inquiry process.

The RIO shall advise the Designated Officer of all Allegations.

- b. Preliminary Assessment.** In the event of an Allegation, the RIO shall promptly conduct a Preliminary Assessment to determine whether an Inquiry is warranted. The RIO shall typically complete a Preliminary Assessment within fourteen (14) days of receiving an Allegation.
- c. Purpose and Nature of 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 conduct any interviews on the Allegation or to engage in an exhaustive review of all Evidence relevant to such an Allegation.

If the RIO determines that Evidence may be needed, the RIO shall notify the Respondent promptly of the Allegation and begin the process of sequestering Evidence. The RIO shall notify the Respondent of their right to be advised by Counsel during all Misconduct Proceedings. The RIO shall provide the Respondent with a copy of this policy, describe the phases of the process and typical timelines, communicate the Respondent's right to challenge the Allegation and explain how to do so, and attempt to answer the Respondent's questions.

Other offices or administrators may be notified and given the facts of the Allegation as appropriate and necessary to facilitating the process. All parties, witnesses, members of committees involved in the process, and administrators and others who are notified of the Allegation on a need to know basis are expected to preserve confidentiality throughout the process.

- d. Determination Regarding Inquiry.** The RIO shall determine if the Allegation rises to the level of a potential violation of the policy.

- (1) **Preliminary Assessment - Standard for Determination.** The RIO shall

determine that an Inquiry is warranted if, in their judgment, (1) the Respondent's alleged conduct could constitute Scholarly Misconduct or Unacceptable Research Practices, and (2) there is credible Evidence to support further review of the Allegation.

- (2) **Inquiry Warranted.** If the RIO determines that an Inquiry is warranted, the RIO shall prepare a Preliminary Assessment referral, which explains the basis for the determination. The RIO shall transmit copies of the Preliminary Assessment referral to the Respondent and the Designated Officer. 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 referral.

The RIO shall provide the Respondent with an opportunity to respond to the Allegation in writing. The Respondent shall have fourteen (14) days from receipt of the Preliminary Assessment referral to submit a written response. The RIO will include the written response in the record for review by the Inquiry Committee.

After completing the Preliminary Assessment referral, the RIO shall immediately initiate an Inquiry.

- (3) **Inquiry Not Warranted.**
- (A) **Preliminary Assessment Report.** 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 their determination. The RIO shall provide a copy of the Preliminary Assessment report to the Respondent, the Complainant, and the Designated Officer.
  - (B) **Response from the Respondent.** The RIO shall provide the Respondent with an opportunity to respond to the Allegation in writing. The Respondent shall have fourteen (14) days from receipt of the Preliminary Assessment report to submit a written response if they so choose. The RIO will include the written response in the Misconduct Proceeding Record.
  - (C) **End of Review.** The RIO's determination that an Inquiry is not warranted shall normally conclude the University's review of that Allegation.
  - (D) **Designated Officer Overrule — Initiation of Inquiry.** If the Designated Officer determines that an Inquiry is warranted within fourteen (14) days of receiving the Preliminary Assessment Report, the Designated Officer may issue a decision to the RIO and the Respondent overruling the RIO's determination for stated cause and instructing the RIO to initiate

an Inquiry immediately. Upon receiving the decision of the Designated Officer, the RIO shall initiate an Inquiry.

(E) **Challenge by Complainant.** The Complainant may challenge the RIO's determination that an Inquiry is not warranted in writing. The challenge will be reviewed by the Designated Officer, who may reject it for stated cause or overrule the RIO's determination as described above.

e. **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 Section XII(a)(1) below.

## VII. INQUIRY

- a. **Committee.** If the RIO determines that an Inquiry is warranted, the RIO shall promptly, and normally within thirty (30) days, appoint a Committee of Inquiry of at least three members, chosen for their pertinent expertise. Prior to the appointment of the Committee, each party shall be given an opportunity to challenge potential members, as outlined in Section II(h). While Inquiry Committees will usually be composed of University faculty, they may also include persons other than University faculty when the RIO determines that such persons have experience or expertise useful to the Inquiry. The Inquiry Committee shall select one of its members to act as its chairperson.
- b. **Charge.** The RIO shall draft a Charge to the Inquiry Committee based upon the Preliminary Assessment referral. The RIO shall submit that Charge and a copy of the Preliminary Assessment referral to the Inquiry Committee and the Respondent at the beginning of the Inquiry. Based on the evidence reviewed during the Inquiry phase, the RIO may modify the initial Charge to the Inquiry Committee.
- c. **Briefing.** Before the Inquiry begins, the RIO and an attorney from the Office of General Counsel shall brief the Inquiry Committee on this policy, other relevant University regulations, and legal and procedural issues that the Inquiry Committee is likely to encounter in conducting the Inquiry.
- d. **Standard for Determination.** The Inquiry Committee shall conduct the Inquiry to determine whether an Investigation is warranted. The Inquiry Committee shall determine that an Investigation is warranted if, in its judgment, an Investigation Committee could reasonably conclude that Scholarly Misconduct occurred. To so determine, the Inquiry Committee must find that the Respondent's alleged conduct could constitute Scholarly Misconduct and that there is credible Evidence to support further review of the Allegation, but must also find that there is sufficient credible Evidence and credible Evidence of such merit that an Investigation Committee could reasonably conclude, in accordance with the criteria in Section VIII(e) below, that Scholarly Misconduct occurred.
- e. **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 Inquiry Committee, like the RIO, is not obligated to conduct any interviews or hearings on the Allegation or to engage in an exhaustive review of all Evidence relevant to the Allegation. When a majority of the members of the Inquiry Committee conclude that an Allegation warrants an Investigation, the Inquiry Committee shall proceed to draft the Inquiry report.

- f. Assistance for Committee.** The RIO shall secure for the Inquiry Committee such special scientific or technical assistance as it requests to evaluate an Allegation.
- g. RIO.** The RIO shall not participate in the deliberations of the Inquiry Committee or vote on whether an Investigation is warranted. The Inquiry Committee may request the assistance of the RIO during its deliberations and in the preparation of the Inquiry report, but shall not seek the RIO's opinion as to whether an Investigation is warranted.
- h. Timing.** Every effort shall be made to complete the Inquiry within sixty (60) days of its inception unless circumstances warrant a longer period. The Designated Officer shall decide whether the delay is warranted. If the Designated Officer determines that it is, the RIO shall notify the Respondent of the reason for the delay and the date on which the RIO expects that the Inquiry will be completed. If the Designated Officer finds the delay unwarranted, the RIO shall work with the Respondent and the Inquiry Committee to expedite completion of the Inquiry, but the Inquiry shall continue until its completion if, despite their diligent efforts, it cannot be finished in sixty (60) days. The RIO's report about the delay will become part of the Misconduct Proceeding Records.
- i. Inquiry Report.**
  - (1) Content. The Inquiry Committee shall prepare an Inquiry report 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 name and position of the Complainant or other source of the Allegation;
    - (C) the nature of the alleged Scholarly Misconduct and how it does or does not fit within the definition of Scholarly Misconduct;
    - (D) a description of the Evidence it reviewed and the sufficiency, credibility, and merit of that Evidence;
    - (E) summaries of any interviews it conducted; and

- (F) a determination of whether an Investigation is warranted.
- (2) Deviation from Practice. If the alleged Scholarly 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) Investigation Warranted. If the Inquiry Committee determines that an Investigation is warranted, the Inquiry report may be summary in nature, provided that the Inquiry Committee sets forth the Evidence that supports its determination in sufficient detail for the Respondent and an Investigation Committee to understand the basis for the Inquiry Committee's decision.
- (4) Investigation Not Warranted. If the Inquiry Committee determines that an Investigation is not warranted, the Inquiry report shall be more comprehensive and shall include a detailed statement of why the Respondent's alleged conduct would not, under the definitions in this policy, constitute Scholarly Misconduct, or why the available Evidence is insufficient, or lacks sufficient credibility or merit, to warrant an Investigation.
- (5) 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 (7) days of receipt of the draft Inquiry report. If the Respondent comments on the draft Inquiry report, the Inquiry Committee 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.
- (6) Designated Officer Opinion on Final Draft Report.
  - (A) After making any changes it deems appropriate in the draft Inquiry report in light of the Respondent's comments, the Inquiry Committee shall prepare a final draft of the Inquiry report. The RIO shall send the Designated Officer a copy of the final draft of the Inquiry report, attaching any RIO comments regarding procedural questions and concerns. Within twenty-one (21) days after delivery of the final draft Inquiry report to the Designated Officer, the Designated Officer may submit an opinion to the RIO, the Responsible Administrator, and the Inquiry Committee on either or both of the following grounds:
    - (i) If the Designated Officer, with advice from the Office of General Counsel, finds that the final draft Inquiry report reflects procedural error by the Inquiry Committee in conducting the Inquiry, the Designated Officer shall so



inform the RIO and shall identify and explain the Inquiry Committee's procedural error. The Inquiry Committee shall either correct the error before completing the Inquiry and the Inquiry report or shall notify the Designated Officer in, or concurrently with the issuance of, the final Inquiry report that it does not believe a material procedural error occurred.

- (ii) If the Designated Officer finds that the Inquiry Committee's determination, as set forth in the final draft Inquiry report, is substantively incorrect because the Evidence does not support the Inquiry Committee's determination, the Designated Officer shall so inform the RIO and shall identify and explain the reason the Designated Officer believes the Inquiry Committee's determination to be in error. The Inquiry Committee shall reconsider its decision in light of the opinion by the Designated Officer. If the Inquiry Committee changes its determination in light of the opinion by the Designated Officer, it shall submit a new draft of the Inquiry report to the Respondent for further comment. If the Inquiry Committee does not change its determination in light of the opinion by the Designated Officer, the Inquiry Committee shall respond to the Designated Officer in completing the Inquiry report and make any changes in the Inquiry report that it deems appropriate in light of the opinion by the Designated Officer.

(B) The opinion by the Designated Officer shall be included as an appendix to the final Inquiry report.

- (7) Distribution of Final Report. The RIO shall send the Designated Officer and the Respondent a copy of the final Inquiry report.

**j. Determination Regarding Investigation.**

- (1) Initiation of Investigation. If the Inquiry Committee determines that an Allegation warrants an Investigation, the RIO shall initiate an Investigation.
- (2) Designated Officer Overrule - Initiation of Investigation. If the Inquiry Committee determines that an Investigation is not warranted, the Designated Officer may, within fourteen (14) days of receiving the final Inquiry report, issue a decision to the RIO and the Respondent overruling the Inquiry Committee for stated cause and instructing the RIO to initiate an Investigation immediately. Upon receiving the decision of the Designated Officer, the RIO shall initiate an Investigation.
- (3) No Investigation. If the Inquiry Committee determines that an

Investigation is not warranted and the Designated Officer does not overrule the determination of the Inquiry Committee, the determination of the Inquiry Committee will conclude the University's review of that Allegation, except as provided in Section XI below.

- (4) Dissent. Any member of the Inquiry Committee who does not agree with the determination of the majority of the Inquiry Committee may file a dissent to the Inquiry report.
  - (5) Bad Faith. If the Inquiry Committee 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 Inquiry Committee shall refer the matter for administrative review and appropriate action, as set forth in Section XII(a)(1) below.
- k. 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 opinion of the Designated Officer, if one was issued.

## VIII. INVESTIGATION

- a. Committee.** The RIO shall make every effort to initiate an Investigation within thirty (30) days of the Inquiry Committee's determination or the decision of the Designated Officer that an Investigation is warranted. The RIO shall appoint an Investigation Committee of not less than three (3) members, chosen for their pertinent expertise. No members of the Inquiry Committee shall serve on the Investigation Committee. Prior to the appointment of the Investigation Committee, each party shall be given an opportunity to challenge potential members, as outlined in II(h) While Investigation Committees will usually be composed of University faculty, they may also include persons other than University faculty when the RIO determines that such persons have experience or expertise useful to the Investigation. The Investigation Committee shall select one of its members to act as its chairperson.
- b. Notifications.**
  - (1) Notification - Internal. The RIO shall notify the Designated Officer and the Office of General Counsel of the initiation of the Investigation.
  - (2) Notification - Funding Source. When the alleged Scholarly Misconduct involves Research or Creative Activities supported by an external (non-University) funder, the RIO shall 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, if applicable.
- c. Charge.** The RIO shall draft a Charge to the Investigation Committee based on

the Inquiry report and the opinion of the Designated Officer, if one was issued. The RIO shall submit a copy of that Charge, the Preliminary Assessment referral, the Inquiry report, and the overruling decision of the Designated Officer, if one was issued, to the Investigation Committee and the Respondent at the beginning of the Investigation.

- d. **Briefing.** Before the Investigation begins, an attorney from the Office of General Counsel and the RIO shall brief the Investigation Committee on this policy, other relevant University regulations, and legal and procedural issues that the Investigation Committee is likely to encounter in conducting the Investigation.
- e. **Standard for Determination.** The Investigation Committee shall determine if Scholarly Misconduct occurred, if the Respondent was responsible for it, and the extent, gravity, and actual and potential consequences of the Scholarly Misconduct. To conclude that Scholarly Misconduct occurred, a majority of the members of the Investigation Committee must find:
  - (1) that there was a significant departure from accepted practices of the relevant research community; and
  - (2) that the Scholarly Misconduct was committed intentionally, knowingly, or recklessly; and
  - (3) that the Allegation was proven by a Preponderance of the Evidence.
- f. **Evidence Review.** The Investigation Committee shall examine all Evidence that it deems pertinent to the Allegation. At its discretion, the Investigation Committee 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 Committee.

- g. **Testimony.**
  - (1) **Interviews or Hearing.** In accordance with V(A)(4), the Investigation Committee may conduct private interviews or a hearing with the Complainant, the Respondent, and other persons, if any, who have material information regarding the Allegation.
  - (2) **Transcript.** The RIO shall arrange for the preparation of a transcript of each witness's interview or hearing testimony and shall send the transcript to the witness for comment or correction. The witness shall have seven (7) days after 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 or hearing testimony.

- h. Assistance for Committee.** If the Investigation Committee 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 Committee the assistance that it requests.
- i. RIO.** The RIO shall not participate in the deliberations of the Investigation Committee or vote on whether Scholarly Misconduct occurred. The Investigation Committee may request the assistance of the RIO during its deliberations and in the preparation of the Investigation report, but shall not seek the RIO's opinion as to whether Scholarly Misconduct occurred.
- j. Timing.** The Investigation Committee shall use its best efforts to complete the Investigation within one hundred and twenty (120) days of its inception.

  - (1) Extension. If the Investigation cannot be completed in that period, the RIO may request an extension from the Designated Officer, in which event the RIO shall notify the Respondent of the reason for the delay and the date on which the RIO expects that the Investigation will be completed. The RIO's report about the delay shall be included in the Misconduct Proceeding Records. If the alleged Scholarly Misconduct involves Research or Creative Activities 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 Committee's activities to date and an estimate of the completion date of the Investigation.
  - (2) Notice of Stay. If the Investigation is stayed and the alleged Scholarly Misconduct involves Research or Creative Activities 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.
- k. Investigation Report.**

  - (1) Content. The Investigation Committee shall prepare a written Investigation report. It shall include:

    - (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 relevant application or grant number, if the alleged Scholarly Misconduct involves sponsored Research or Creative Activities;
    - (C) a description of the Allegation and the name of the Complainant, if known and not held in confidence;
    - (D) a summary of the Evidence reviewed, including, but not

- limited to, an account of how and from whom it was obtained;
  - (E) a transcript of each interview or hearing 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 Section VIII(e) 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; and
  - (I) a copy of this policy and any other University policies and procedures relevant to the Investigation.
- (2) Scholarly Misconduct Finding. If the Investigation Committee finds that Scholarly Misconduct occurred, the Investigation report must include:
- (A) the Investigation Committee's determination that:
    - (i) there was a significant departure from accepted practices of the relevant research community; and
    - (ii) the Scholarly Misconduct was committed intentionally, knowingly, or recklessly; and
    - (iii) the Allegation was proven by a Preponderance of the Evidence.
  - (B) a determination whether any part of the Research Record needs correction or retraction as a result of the finding of Scholarly Misconduct, and, if so, an explanation of that correction or retraction.
- (3) No Scholarly Misconduct Found. If the Investigation Committee does not find that Scholarly Misconduct occurred, it shall explain the reasons for its decision in the Investigation report, with specific reference to the pertinent criteria set forth in Section VIII(e) above.
- (4) 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 thirty (30) days of receipt of the draft Investigation report. If the Respondent comments on the draft Investigation report, the Investigation Committee 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.

(5) Designated Officer Opinion on Draft Report.

(A) After making any changes it deems appropriate in the draft Investigation report in light of the Respondent's comments, the Investigation Committee shall prepare a revised draft of the Investigation report. The RIO shall send the Designated Officer a copy of the draft of the Investigation report, attaching any RIO comments regarding procedural questions and concerns. Within thirty (30) days after delivery of the draft Investigation report to the Designated Officer, the Designated Officer may submit an opinion to the RIO, the Responsible Administrator, and the Investigation Committee on either or both of the following two grounds:

(i) If the Designated Officer, with advice from the Office of General Counsel, finds that the draft Investigation report reflects procedural error by the Investigation Committee in conducting the Investigation, the Designated Officer shall so inform the RIO and shall identify and explain the Investigation Committee's procedural error.

The Investigation Committee shall either correct the error before completing the Investigation and the Investigation report or shall notify the Designated Officer in, or concurrently with the issuance of, the final Investigation report that it does not believe a material procedural error occurred.

(ii) If the Designated Officer finds that the Investigation Committee's determination, as set forth in the draft Investigation report, is substantively incorrect because the Evidence does not support the Investigation Committee's determination, then the Designated Officer shall so inform the RIO and shall identify and explain the reason the Designated Officer believes the Investigation Committee's determination to be in error. The Investigation Committee shall reconsider its decision in light of the opinion by the Designated Officer. If the Investigation Committee changes its determination in light of the opinion by the Designated Officer, it shall submit a new draft of the Investigation report to the Respondent for further comment. If it does not change its determination in light of the opinion by the Designated Officer, the Investigation Committee shall respond to the opinion by the Designated

Officer in completing the Investigation report and make any changes in the Investigation report that it deems appropriate in light of the opinion by the Designated Officer.

- (B) In most cases, the Investigation Committee should be expected to finalize the Investigation report within thirty (30) days of receiving the Designated Officer's opinion.
  - (C) The opinion by the Designated Officer shall be included as an appendix to the final Investigation report.
- (6) Dissent. Any member of the Investigation Committee who does not agree with the determination of the majority of the Investigation Committee may file a dissent to the Investigation report.
- i. Bad Faith.** If the Investigation Committee 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 Investigation Committee shall refer the matter for administrative review and appropriate action as set forth in Section XII(a)(1) below.
- m. Final Report; Provost Overrule.**
- (1) Copy to Provost. The Designated Officer shall send the Provost a copy of the final Investigation report.
  - (2) Overrule; New Investigation. If the Provost believes the Investigation Committee's determination is incorrect, the Provost may, within fourteen (14) days of receiving the final Investigation report, issue a written decision to the Designated Officer and the RIO overruling the Investigation Committee for stated cause and instructing the RIO to impanel another Investigation Committee immediately.
  - (3) Second Investigation Committee. If a second Investigation Committee is impaneled, it shall conduct a new Investigation. Subject to the Respondent's right to appeal pursuant to Section IX below, the second Investigation Committee's determination shall be binding.
- n. Distribution of Final Report; Comments.** The RIO shall send a copy of the final Investigation report to the Respondent after the Provost has had an opportunity to review and overrule the Final Report as appropriate. The Respondent may deliver comments on the Investigation report to the RIO within fourteen (14) days of the delivery of the final Investigation report to the Respondent. The RIO shall include any such comments in the Misconduct Proceeding Records.
- o. Notifications.**

- (1) 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, including those portions of the Investigation report that address the Complainant's role and testimony, if any, in the Investigation.
- (2) Federal Support. When the alleged Scholarly Misconduct involves Research or Creative Activities supported by a federal funding source, the RIO shall submit the Investigation report to it. It may accept the Investigation report, ask for clarification or additional information, which shall be provided by the RIO, or commence its own independent investigation.
- (3) Other Funding Source. When the alleged Scholarly Misconduct involves Research or Creative Activities 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 and such other information, if any, as it may request in response to the RIO's notification.

## IX. APPEAL

- a. **Appeal Rights.** All Respondents who are found to have committed Scholarly Misconduct have the right to an internal University appeal. During appellate proceedings, no disciplinary proceeding will be commenced as a consequence of the finding of Scholarly Misconduct. In addition, a Respondent who has applied for or received support from a federal funding source for the Research or Creative Activities in relation to which the Scholarly Misconduct occurred has the right under certain circumstances to appeal a finding of Scholarly Misconduct by an Investigation Committee to that federal funding source.

During appellate proceedings, appropriate University administrators may initiate on an interim basis actions they deem necessary to safeguard University personnel, other participants in any Misconduct Proceeding, public health or safety, experimental subjects, sponsors' funds or equipment, Evidence, or the integrity of the research environment. These actions do not indicate that a conclusion has been reached from the University's review process, and such actions may be revised, revoked, or made permanent upon the confirmation of a final outcome once appellate proceedings have concluded.

- b. **External Appeal Record.** If the Respondent appeals a finding of Scholarly Misconduct by an Investigation Committee to a federal funding source, the RIO shall attempt to obtain copies of all documents filed in that appeal.
- c. **Procedure.**
  - (1) Internal Appeal. The Respondent may appeal a finding of Scholarly Misconduct to the RIO within thirty (30) days of the date of the final



Investigation report. The appeal must be in writing and must set forth the substantive or procedural reasons the Respondent believes the finding of Scholarly Misconduct is incorrect. The RIO will submit the appeal to the Provost for decision.

- (2) **Review and Recommendation.** The Provost 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 Provost.
  - (3) **Request for Additional Information.** The Provost, or the Provost'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.
  - (4) **Basis for Decision.** The Provost'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, the Respondent's appeal, and, if available, the recommendations from Section IX(c)(2) above.
- d. New Evidence.** If the RIO learns of previously unavailable material Evidence relevant to the finding of Scholarly Misconduct during the appeal, the RIO shall inform the Provost and the Respondent of the new Evidence. If the Provost concurs that the new Evidence could materially affect the finding of Scholarly Misconduct, the Provost shall remand the finding to the Investigation Committee that made the finding for its consideration of the new Evidence. The Investigation Committee shall notify the Provost within fourteen (14) days that it finds the new Evidence immaterial to its prior finding or that it wishes to reopen the matter. The Provost may extend this period for good cause by notice to the Respondent and the RIO.
- e. Decision.** The Provost shall issue a decision and rationale affirming or reversing the finding of Scholarly Misconduct within thirty (30) days after the submission of the appeal to the RIO. The Provost may extend this period for good cause by notice to the Respondent and the RIO.

## **X. FINAL RESOLUTION AND OUTCOME**

- a. Exoneration.** If the Preliminary Assessment results in a determination that an Inquiry is not warranted, or if the Inquiry Committee decides that an Investigation is not warranted, or if an Investigation Committee does not find that Scholarly Misconduct has occurred, or if a finding of Scholarly Misconduct is reversed on appeal, the Responsible Administrator and the RIO shall make diligent efforts, if requested by the Respondent, to restore the Respondent's reputation. These efforts shall be undertaken in consultation with the

Respondent, provided that they shall: (1) be reasonable and practicable under the circumstances and proportionate to the damage to the Respondent's reputation as a result of the Allegation; (2) be consistent with applicable federal funding source expectations, if the Research or Creative Activities which were the subject of the Allegation were supported by that federal funding source; and (3) 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.

**b. Scholarly Misconduct Found.**

- (1) Actions. After all appeals have been decided, or the opportunity for an appeal has expired, and there is a final decision that Scholarly Misconduct has occurred:
  - (A) the Responsible Administrator, after consultation with the Provost, shall take appropriate actions in response to the finding of Scholarly Misconduct. Such actions may include:
    - (i) the imposition of sanctions within the authority of the Responsible Administrator and initiating University disciplinary proceedings appropriate to the finding of Scholarly Misconduct pursuant to applicable University policies, procedures, and contracts; or
    - (ii) referral of the finding of Scholarly Misconduct to another administrator who has authority to impose sanctions and initiate disciplinary proceedings.
  - (B) the RIO, after consultation with the Office of General Counsel and the Provost, shall attempt to correct, and/or seek retraction of, any part of the Research Record or other relevant records materially affected by the Scholarly Misconduct. The Respondent will not interfere with the RIO's efforts in these regards. Those affected by the Scholarly Misconduct are permitted to share this information with their colleagues.
- (2) Disciplinary Action. The University views Scholarly Misconduct as grounds for disciplinary action pursuant to applicable University policies, procedures, and contracts. Disciplinary action may include suspension and/or termination of employment of a faculty or staff member found responsible for Scholarly Misconduct. Disciplinary action may include termination of enrollment and/or degree revocation for a student found responsible for Scholarly Misconduct. Disciplinary action may be challenged or grieved according to relevant University policies.
- (3) Government Sanctions. In addition to sanctions imposed by the University, certain federal funding sources may impose sanctions of their

own, if the Scholarly Misconduct involved Research or Creative Activities which they supported.

- (4) **Serious Deviation.** The University may take action, including disciplinary action, in response to a finding of Scholarly Misconduct based on a serious deviation from accepted practices even if another Allegation of Scholarly Misconduct against the same Respondent has not been sustained and the University has an obligation under Section X(a) above with respect to the unsustained Allegation.
- c. New Evidence.** After all appeals have been decided, or if the opportunity for appeal has expired, and there is a final decision that Scholarly Misconduct has occurred, if the Respondent learns of previously unavailable material Evidence relevant to the determination of Scholarly Misconduct, within thirty (30) days from the appeal decision or thirty (30) days from the date the opportunity to appeal has expired, 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 Investigation Committee that conducted the Investigation of the Scholarly Misconduct. The Investigation Committee shall promptly consider the new Evidence and notify the Provost of its impact on its finding of Scholarly Misconduct and on its Investigation report. Based on the new Evidence and the information from the Investigation Committee, the Provost may reverse or affirm the previous finding of Scholarly Misconduct, or remand the matter to the Investigation Committee to conduct a new Investigation in light of the new Evidence. The Provost shall issue that decision with stated rationale within thirty (30) days of receiving the notice from the Investigation Committee, but may extend this period for good cause by notice to the Respondent and the RIO.
  - d. Termination.** If the Designated Officer terminates the review of any Allegation under Section V(d), an explanation for such termination shall be included in the Misconduct Proceeding Records.

## XI. UNACCEPTABLE AND QUESTIONABLE RESEARCH PRACTICES

- a. Referral from Proceedings.** An Inquiry Committee may find that while a Respondent's conduct does not warrant an Investigation, it nevertheless constitutes an Unacceptable Research Practice or Questionable Research Practice. Similarly, an Investigation Committee may find that while a Respondent's conduct does not constitute Scholarly Misconduct, it nevertheless constitutes an Unacceptable Research Practice 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. Disciplinary action may be challenged or grieved according to relevant University policies.
- b. Discovery and Report.** Unacceptable Research Practices 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 Research

Practice 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.

## **XII. BAD FAITH**

### **a. Complainant or Witness.**

- (1) Referral for Action. If the RIO, an Inquiry Committee, or an Investigation Committee 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.
- (2) 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.

## **XIII. PROTECTING PARTICIPANTS IN MISCONDUCT PROCEEDINGS**

**a. 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 Committee member, Investigation Committee member, Counsel, Responsible Administrator, Designated Officer, or RIO, or who has otherwise cooperated in the review of an Allegation under this policy. These efforts shall be:

- (1) reasonable and practical under the circumstances;
- (2) proportionate to the risk to the individual's position and reputation; and
- (3) consistent with applicable funder expectations, if the Research or Creative Activities, which were the subject of the Allegation, were supported by a federal funding source.

### **b. Retaliation.**

- (1) Prohibition. University employees and students shall not engage in or threaten Retaliation.
- (2) 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.

- (3) Discipline. The University views Retaliation by a University employee or student as grounds for disciplinary action pursuant to applicable University policies, procedures, and contracts.
- (4) 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 or Creative Activities that were the subject of the Allegation whose review led to the Retaliation were supported by a federal funding source, shall be consistent with applicable funder expectations.

## **APPENDIX**

### **Appointment and Evaluation of the Designated Officer and the Research Integrity Officer**

#### **I. APPOINTMENT OF THE DESIGNATED OFFICER**

1. The Designated Officer shall be appointed by the Provost, and shall serve at the pleasure of the Provost.
2. The Designated Officer shall report to the Provost and shall keep the Provost informed about the progress of cases under this policy and about the educational and other activities of the RIO's office.
3. Should the Designated Officer be unable to fulfill the obligations and duties of the Designated Officer under this policy with respect to a particular Allegation due to conflicts of interest or other reasons, the Provost shall appoint a replacement Designated Officer.

#### **II. APPOINTMENT OF THE RIO**

1. The RIO shall be appointed by the Designated Officer, and shall serve at the pleasure of the Designated Officer.
2. The RIO shall report to the Designated Officer and shall keep the Designated Officer informed about the progress of cases under this policy and about the educational and other activities of the RIO's office. The RIO shall also perform such other duties as are assigned the RIO under this policy.
3. Should the RIO recuse himself or herself from the RIO's duties under this policy with respect to a particular Allegation, the Designated Officer shall appoint a replacement RIO.

#### **II. EVALUATION OF THE RIO**

1. The RIO shall submit a report annually to the Designated Officer which shall set forth the number of cases handled by the RIO's office during the previous academic year and their outcomes, along with information on the educational and other activities of the RIO's office during that academic year.
2. The Designated Officer shall evaluate the performance of the RIO biennially, pursuant to criteria established by the Designated Officer.

#### **III. ADVISORY COMMITTEE TO THE RIO**

1. The College-level Research Integrity Officers shall serve as an advisory resource for the RIO on issues relating to Scholarly Misconduct and this policy.



**III-1.10(A) UNIVERSITY OF MARYLAND POLICY AND PROCEDURES CONCERNING RESEARCH MISCONDUCT**

(Approved by the President August 1, 1991; Revised May 11, 2000; Revised May 13, 2008; Technical Amendment April 6, 2009; Approved on an Interim basis June 29, 2017)

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**INTRODUCTION**

Integrity in research is the responsibility of the entire academic community. All members of the university community – students, staff, faculty and administrators – share responsibility for developing and maintaining standards to assure honesty, accuracy and objectivity in scientific and scholarly work and other creative activities and detection of abuse of these standards. Misconduct in carrying out academic activities undermines the integrity of the educational system and the scientific enterprise, and erodes the public trust in the university community to conduct research and communicate results using the highest standards and ethical practices. The responsibility to prevent and detect misconduct, however, must be assumed without creating an atmosphere that discourages the openness and creativity which are vital to scholarship and the research enterprise.

Institutions that apply for or receive federal funds for research are required by law to share responsibility for the integrity of the research process (e.g., Public Health Service Policies on Research Misconduct, 42 CFR Part 93). The University of Maryland, College Park (University) voluntarily applies the common federal standards for integrity in research to all University research regardless of funding source. Both the University and its personnel have a duty to ensure the integrity of research and research training by assuming primary responsibility for responding to allegations of Research misconduct.

**APPLICABILITY**

This policy applies to all scientific and scholarly work, and other creative activity, research training, applications and proposals and related activity containing a research component, performed at the University by any person, including faculty, staff, students, visitors and others; or performed with the use of University resources; or performed elsewhere, by a person acting under the auspices of the University. This policy does not supersede other University System of Maryland or University policies and procedures, such as suspected fiscal irregularity, conflict of interest, and unethical conduct of research involving human or animal subjects. All other instances of research misconduct, whether the research is sponsored or not, will follow these policies and procedures. Allegations of misconduct by students in academic exercises, such as examinations and course requirements, are generally handled pursuant to the University’s Code of Academic Integrity.

**POLICY**

It is the policy of the University:

- A. To maintain high standards of honesty, accuracy and objectivity in science and other scholarly and creative works, to prevent research misconduct where possible, and to evaluate and to resolve promptly and fairly instances of alleged or apparent Research Misconduct.
- B. To take appropriate remedial and disciplinary action in response to findings of Research Misconduct, which may include termination of enrollment or employment of an individual responsible for Research Misconduct.
- C. To award no degree if Research Misconduct contributed to that degree, and when warranted, to revoke such a degree if Research Misconduct is discovered after its award.

## I. DEFINITIONS

**“Abuse of Confidentiality/Misappropriation of Ideas”** means the improper use or appropriation of information obtained from scholarly exchanges and other types of confidential access, such as review of grant applications or manuscripts and service on peer review panels, editorial boards or University committees.

**“Allegation”** means a disclosure of possible Misconduct by a Respondent to the RIO by any means of communication. An allegation should include sufficient detail, and supporting evidence, if available, to permit a preliminary assessment by the RIO under this Policy and Procedure.

**“Bad Faith”** means a material and demonstrable failure to meet the standards for Good Faith set forth herein as a Complainant, a witness, an Inquiry Committee member, an Investigation Committee member, the Responsible Administrator, 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”** means a person who makes an Allegation. A Complainant need not be a member of the University community.

**“Complaint”** means a formal, written communication to the RIO which contains allegations of research misconduct.

**“Conflict of Interest”** means any personal, professional, or financial relationship that influences or reasonably would be perceived to influence the impartial performance of a duty assigned under these Procedures.

**“Counsel”** means lay or legal counsel secured by a Complainant or Respondent to serve as an advisor during the Misconduct Proceedings, at the party’s own expense.

**“Creative Activities”** means the preparation or creation of computer programs, websites, motion pictures, sound recordings, and literary, pictorial, musical, dramatic, audiovisual, choreographic, sculptural, architectural, and graphic works of any kind by (1) a faculty member or other employee of the University as part of her or his 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 or doctoral thesis).

**“Deliberate Material Failure to Comply with Federal, State or University Requirements Affecting Research”** means violations involving the use of funds or resources, care of animals, human subjects, investigational drugs, recombinant products, new devices, radioactive, biologic or chemical materials or the health and safety of individuals or the environment.

**“Deliberate Misrepresentation of Qualifications”** means misrepresentation of experience or research accomplishments to advance a research program, to obtain external funding or for other professional or personal advancement.

**“Evidence”** means any document, tangible item, or testimony that is received, or that may be offered, as evidence during a Misconduct Proceeding to prove or disprove the existence of a 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 recordings of oral presentations and interviews.

**“Fabrication”** means making up Research data or results and recording or reporting them.

**“Falsification”** means manipulating Research materials, equipment, or processes, or changing or omitting Research data or results, such that Research is not accurately represented in the Research Record.

**“Good Faith”** means having a belief in the truth of one’s Allegation or testimony that a reasonable person in the individual’s position could have based on the information known to the individual at the time. An Allegation or cooperation with a Misconduct Proceeding is not in Good Faith if made or done with a knowing or reckless disregard for information that would negate the Allegation or testimony.

**“Improprieties of Authorship”** means the improper assignment of credit, such as excluding or insufficiently citing others; misrepresentation of the same materials as

original in more than one publication; inclusion of individuals as authors who have not made a contribution to the published work; or submission of multi-authored publications without the concurrence of all authors.

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

**“Inquiry Committee”** means a group of at least three persons appointed by the RIO to conduct an Inquiry.

**“Investigation”** means 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 Committee”** means a group of at least three persons appointed by the Senior Vice President and Provost to conduct an Investigation.

**“Misappropriation of Funds or Resources”** means the misuse of funds or resources for personal gain.

**“Misconduct Proceeding”** means any proceeding under these Procedures related to the review of an Allegation, including Preliminary Assessments, Inquiries, Investigations, and internal appeals.

**“Misconduct Proceeding Records”** means: (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 and final (not draft) documents produced in the course of preparing that report, including any other documentation of a decision that an Investigation is not warranted; (5) the Investigation report and all records (other than drafts of the Investigation report) in support of that report, including the transcripts of each interview or hearing conducted during an Investigation; and (6) the complete record of an internal appeal (see Section IX below) from a finding of Misconduct.

**“Plagiarism”** means the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit.

**“Preliminary Assessment”** means initial information gathering to determine whether there is sufficient 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”** means proof by Evidence that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

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

**“Research”** means formal investigation conducted for the purpose of producing or contributing to generalizable knowledge, and the reporting thereof, 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 or doctoral thesis).

**“Research Misconduct”** means 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 and Creative Activities, including Improprieties of Authorship; Abuse of Confidentiality/Misappropriation of Ideas; Deliberate Misrepresentation of Qualifications; Deliberate Material Failure to Comply with Federal, State or University Requirements Affecting Research; and Violation of Generally Accepted Research Practices. Misconduct does not include appropriate practices in the Creative Arts 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.

**“RIO”** means the University’s Research Integrity Officer. The RIO normally will be the University Senior Vice President and Provost or the Provost’s designee.

**“Respondent”** means a person who is the subject of an Allegation. 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.

**“Responsible Administrator”** means the unit administrator who has most immediate responsibility for the Respondent and who is not disqualified from serving as Responsible Administrator by a Conflict of Interest. The RIO shall identify the Responsible Administrator. If the Responsible Administrator is a dean or other higher level administrator, she or he may designate a subordinate to act as Responsible Administrator. If the Respondent is a student, the Responsible Administrator shall be the chairperson or appropriate unit head of the department or program with which the student is affiliated. If an Allegation involves multiple Respondents, the RIO shall identify an appropriate individual or individuals to

serve as the Responsible Administrator or Administrators.

**“Research Record”** means the record of data or results from scholarly inquiry, including, without being limited to, research proposals, 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.

**“Retaliation”** means an adverse action taken against an individual who has, in Good Faith, participated in a Misconduct Proceeding (as Complainant, witness, Inquiry Committee member, Investigation Committee member, Counsel, Advisor, Responsible Administrator, or RIO) or otherwise cooperated in the review of an Allegation under these Procedures, where there is a clear 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.

**“Unacceptable Research Practices”** means 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 or Creative Activities.

## II. GENERAL

- a. **Anonymous Allegations.** The University shall review anonymous Allegations under these Procedures.
- b. **Confidentiality.**
  - (1) **Limited Disclosure of Allegation/Misconduct Proceedings.** To the extent possible consistent with a fair and thorough review of an Allegation, disclosure of an Allegation and the resulting Misconduct Proceedings should be limited to those who need to know about them. In amplification, and not in limitation, of the foregoing:
    - (A) except as otherwise permitted or required by these Procedures, or as required by law, members of Inquiry Committees, and Investigation Committees, the Responsible Administrator, the RIO, and University administrators involved in the review of an Allegation under these Procedures shall make diligent efforts to preserve the confidentiality of the Allegation and resulting Misconduct Proceedings out of respect for the privacy of those involved, especially the Respondent; and
    - (B) if an Allegation results in an Investigation, the RIO may

confidentially advise any person or entity that has plans to publish or disseminate the results of the Research or Creative Activity to which the Allegation relates of the pending Investigation.

- (2) **Complainant Identity.** The University shall make diligent efforts to honor the request of any Complainant that her or his identity be kept confidential during the University's review of his or her Allegation under these Procedures.
  - (3) **Breaches of Confidentiality.** The RIO should be informed immediately of breaches of confidentiality. The RIO will investigate the breach of confidentiality and refer the matter to the appropriate unit administrator for review and such further action, if any, as the unit administrator may deem appropriate.
- c. Cooperation.** To preserve the integrity of the environment for Research and Creative Activities, members of the University community are expected to cooperate in the review of Allegations under these Procedures, for example, by providing documents, materials, and testimony if requested to do so by the RIO.
- d. Location of Alleged Misconduct.** An Allegation may be reviewed by the University under these Procedures no matter where or when the Misconduct allegedly occurred.
- e. Events Requiring Immediate Action.** If, at any stage of these Procedures, the RIO obtains reasonable information about
- (1) a possible criminal violation;
  - (2) an immediate health hazard or other imminent risk of danger to public health or safety or to experimental subjects;
  - (3) the need to take immediate action to protect the funds or equipment of any governmental or other sponsor of Research or Creative Activities, or to assure compliance with the terms of a contract sponsoring Research or Creative Activities;
  - (4) the need to take immediate action to protect any Complainant, Respondent, witness, member of an Inquiry Committee, an Investigation Committee, or other person involved in any Misconduct Proceeding, the need to take immediate action to prevent the loss, destruction, or adulteration of any Evidence;
  - (5) the need to take immediate action to prevent or stop an imminent



or continuing violation of an applicable law, regulation, or other governmental requirement or of a University rule or policy; or

- (6) the probable public disclosure of an Allegation or any Misconduct Proceeding;

The RIO shall immediately so notify the Provost, the General Counsel, and, if appropriate, the pertinent government official or sponsor of Research or Creative Activities, and, following consultation with the Office of the General Counsel, the RIO shall promptly make recommendations to the Provost as to responsive actions.

Notwithstanding any other provision of these Procedures, appropriate University administrators shall have authority to take any actions they deem necessary or appropriate to safeguard University personnel, other participants in any Misconduct Proceeding, public health or safety, experimental subjects, sponsors' funds or equipment, Evidence, or the integrity of the research environment. That any such action is taken shall not be deemed to predetermine any finding or conclusion from the University's review of an Allegation under this Policy and Procedure, but any information arising from any such action may constitute Evidence.

- f. **Notice.** Any notice or other document issued pursuant to this Policy and Procedure shall be in writing and shall include an explanation of any decision or opinion stated therein. The RIO shall provide the Respondent copies of all such documents in a timely manner.

- g. **Interpretation.**

- (1) Time Periods. Unless otherwise specified in these Procedures:
  - (A) the failure to exercise any right granted under these Procedures within the stated time period shall constitute a waiver of that right; and
  - (B) references to days in these Procedures shall mean calendar days.
- (2) Plural Usage. The text of these Procedures generally assumes a single Complainant, Respondent, witness, and Allegation. Where there are multiple Complainants, Respondents, witnesses, or Allegations, these Procedures shall be construed accordingly.
- (3) Headings. Headings used in these Procedures are for convenience of reference only and shall not be used for interpreting content.

**h. Objections.**

Both the Respondent and the Complainant may challenge the RIO's identification of an Inquiry Committee member or an Investigation Committee member, but only on the basis of asserted Conflict of Interest on the part of the Inquiry Committee member or Investigation Committee member.

A Respondent or Complainant who wishes to file an objection must do so in writing, with accompanying rationale, within five (5) days of receiving notice. The objection shall be submitted to the RIO. The RIO must respond to the challenge in writing within five (5) days, either accepting it and taking appropriate action, or rejecting it for stated cause.

- (1) Extensions of Time. The deadlines in this Section II(h) may be extended by the RIO through written notice to the parties for good cause shown.
- (2) Other Objections and Complaints. If the Complainant or Respondent objects to any decision, procedural or substantive, made during the current or any previous Misconduct Proceeding in the review of the Allegation, he or she may raise that objection:
  - (A) with the RIO during the Preliminary Assessment;
  - (B) with the Inquiry Committee during the Inquiry;
  - (C) with the Investigation Committee during the Investigation;  
and
  - (D) with the Provost during an internal appeal under Section IX below.

Neither procedural or substantive decisions nor findings made under these Procedures by the RIO, a Responsible Administrator, an Inquiry Committee, an Investigation Committee, or the Provost can be challenged or overturned under any other University policy or procedure.

**III. ROLE OF THE RIO**

The RIO shall coordinate implementation of these Procedures and shall be responsible for their fair and impartial administration. The RIO shall not be an advocate for the Complainant or the Respondent.

The RIO shall serve as an advisor to Inquiry Committees and Investigation Committees. If so requested, the RIO shall provide logistical support, recruit expert

witnesses, and arrange for legal advice through the Office of the General Counsel.

When an Allegation involves Research or Creative Activity supported by a federal funding source, the RIO shall see that the University meets all legal requirements to apprise it of the status of an Inquiry or an Investigation into that Allegation. The RIO also shall report regularly to the Provost, on the status of each Inquiry and each Investigation.

The RIO shall identify the Responsible Administrator. The RIO also shall disqualify any Responsible Administrator, and any potential or sitting member of an Inquiry Committee or Investigation Committee, if the RIO determines that such person has a Conflict of Interest.

The RIO shall take all reasonable and practical steps to obtain custody of all the Evidence needed to conduct the review of an Allegation under these Procedures, inventory the Evidence, and sequester it in a secure manner, except where the Evidence encompasses scientific instruments shared by a number of users. The RIO may take custody of copies of the Evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. The RIO will give the Respondent copies of, or reasonable, supervised access to, the Evidence.

Misconduct Proceeding Records will be kept in a secure manner, accessible only to the RIO's administrative staff. The RIO shall keep all Misconduct Proceeding Records for at least seven (7) years after the completion of the Misconduct Proceedings to which they relate, except that the RIO shall keep Preliminary Assessment reports and related Misconduct Proceeding Records for three (3) years after the completion of the Preliminary Assessment to which they relate and then destroy them.

Other RIO responsibilities are set forth elsewhere in these Procedures.

Provisions regarding the designation, selection, reporting responsibilities, and evaluation of the RIO are set forth in the Appendix.

#### **IV. OTHER INTERNAL OR EXTERNAL PROCEEDINGS**

The conduct which forms the basis for an Allegation may also involve the possible violation of other University policies or the policies of other institutions, and of external laws and regulations, and may occasion other internal or external adjudicatory proceedings. The following shall govern the handling and sequencing of such proceedings.

- a. Other Institution's Review.** Another educational or research institution may have the right to review the same Allegation (or a related Allegation) against the same Respondent. In such an event, the RIO shall consult her or his

counterpart at the other institution to determine whether the University or the other institution is best able to review the Allegation. If the RIO determines that the other institution is best able to review the Allegation, the RIO shall so advise the Provost, who has authority to stay or terminate the University's review of the Allegation based on the review conducted at the other institution, as set forth in Section IV(g) below. The University and the other institution may also agree to conduct a joint review of the Allegation.

- b. Research Collaborator.** In the event of an Allegation involving Research or Creative Activities undertaken by a Respondent in collaboration with a colleague at another educational or research institution, the RIO shall advise his or her counterpart at the other institution confidentially of the Allegation, and ascertain if a similar allegation has been made against the collaborator. If it has, the University, through the RIO, may attempt to cooperate and share information confidentially with the other institution in their respective reviews of the Allegation and of the related allegation involving the collaborator. The University and the other institution may also agree to conduct a joint review of the Allegation and the related allegation involving the collaborator.
- c. Government Investigation.** Certain federal funding sources have the option, at any stage in these Procedures, to initiate an independent investigation of an Allegation involving Research or Creative Activity supported by the funding source. In the event a federal funding source initiates such an investigation, the RIO shall consult the federal funding source regarding its investigation and shall advise the Provost whether the University should suspend its review of the Allegation during the federal funding source's investigation, which the Provost shall have authority to do, as set forth in Section IV(f) below.
- d. Criminal Process.** In general, University review of an Allegation under these Procedures may occur in parallel with criminal processes. If an Allegation is also the subject of a criminal investigation or proceeding and the pertinent governmental authority advises the University that the University's review of the Allegation under these Procedures may prejudice or interfere with that investigation or proceeding, the Provost shall have authority to stay any Misconduct Proceeding until the criminal investigation or proceeding is complete.
- e. Civil Litigation.** The existence of civil litigation involving the University may necessitate staying a Misconduct Proceeding. The Provost shall make such decisions on a case-by-case basis and promptly report them to the RIO.
- f. Provost Stay of Proceedings.** The Provost shall have authority to stay any Misconduct Proceeding if, following consultation with the Office of the General Counsel and the RIO, the Provost determines that other University procedures mandated by law must be completed prior to the University's further review of an Allegation under these Procedures. Such governmentally-mandated

procedures may involve various forms of regulatory action (for example, the removal or clean-up of radioactive or other hazardous materials).

- g. Precedence of Proceedings.** Subject to Section IV(f) above and to the University's right to take interim action under any University policy or contract, review of an Allegation under these Procedures shall precede all other internal University proceedings against a Respondent that relate to or arise out of the alleged Misconduct, including, without being limited to, disciplinary, anti-discrimination, and grievance proceedings.

## **V. PROCEDURES FOR CONDUCT OF MISCONDUCT PROCEEDINGS – GENERAL**

- a. Determination of Procedures.** Those charged with conducting a Misconduct Proceeding shall determine the procedures that will be followed, provided that:
  - (1) the procedures they adopt shall be those they deem best suited to achieve a fair and equitable review of the Allegation;
  - (2) the procedures they adopt shall reflect a spirit of mutual respect and collegiality, and may, therefore, be as informal as they deem appropriate under the circumstances;
  - (3) in Preliminary Assessments and Inquiries, testimony shall be obtained from witnesses through private interviews rather than through a formal hearing;
  - (4) in Investigations, the Investigation Committee may choose to obtain testimony from witnesses through a series of private interviews with witnesses, or at a hearing at which the Complainant and the Respondent shall be invited to be present, provided, however, that the Respondent may, within five (5) days of receiving a notice that the Investigation Committee has decided to conduct private interviews, deliver a notice to the RIO requiring that a hearing be conducted instead of such interviews;
  - (5) at a hearing, the Respondent and the Complainant shall have the opportunity to raise questions for the Investigation Committee to pose to each witness about the testimony of that witness and the Allegation;
  - (6) if a Complainant who has requested that his or her identity be kept confidential declines to appear to give testimony at a hearing, the hearing may nevertheless be held, if the Investigation Committee determines that there is credible Evidence of possible Misconduct by the Respondent apart from the Complainant's Allegation and that such Evidence is sufficient to justify proceeding with the hearing;

- (7) if a Complainant who has requested that his or her identity be kept confidential declines to appear to give testimony at a hearing, the hearing may nevertheless be held, if the Investigation Committee determines that there is credible Evidence of possible Misconduct by the Respondent apart from the Complainant's Allegation and that such Evidence is sufficient to justify proceeding with the hearing;
- (8) the Respondent shall have the right to be advised by Counsel in all Misconduct Proceedings;
- (9) the Complainant shall have the right to be advised by Counsel in all Misconduct Proceedings;
- (10) in all Preliminary Assessments, Inquiries, and Investigations, the Respondent shall have the right to present Evidence and to identify persons who might have Evidence about the Allegation;
- (11) formal rules of evidence shall not apply;
- (12) each Misconduct Proceeding shall be conducted confidentially and in private except that, in the event of a hearing, the Investigation Committee may decide that it will be open if requested by the Respondent and if permissible under applicable regulations; and
- (13) to the extent that a published regulation of a federal funding source requires a specific procedural element in the review and adjudication of an Allegation concerning a proposal to or an award from that federal funding source, that procedural element shall be included in the procedures adopted.

At the start of each Misconduct Proceeding, the RIO shall notify the Complainant and the Respondent of the procedures that will be followed during that Misconduct Proceeding.

- b. General Counsel Advice.** The Office of the General Counsel shall, when so requested, provide legal advice regarding the implementation of this Policy and Procedure and other aspects of the University's review of an Allegation under this Policy and Procedure to the RIO, the Responsible Administrator, the Inquiry Committee, the Investigation Committee, an Appeals Committee, and the Provost.
- c. Respondent Questions.** The RIO shall contact the Respondent at the start of each Misconduct Proceeding and attempt to answer any questions about that Misconduct Proceeding.

- d. **Admission of Misconduct.** The Provost shall have authority to terminate the University's review of any Allegation under the Procedures upon the admission by the Respondent that Misconduct occurred and that the Respondent was responsible for it, if the termination of the review of that Allegation would not prejudice the University's review of another Allegation against that Respondent or against a different Respondent or the University's ability to assess the extent and consequences of the Misconduct and what action should be taken in response to it.
- e. **Records to Agency.** When the alleged Misconduct involves Research or Creative Activity supported by a federal funding source, the RIO shall make available to its authorized personnel any Misconduct Proceeding Records that such personnel request.
- f. **Additional Respondents.** If, during the course of any Misconduct Proceeding, additional Respondents are identified, they shall be notified immediately, and the RIO shall, to the degree feasible, attempt to coordinate the Misconduct Proceedings against all the Respondents.

## VI. ALLEGATIONS OF MISCONDUCT AND PRELIMINARY ASSESSMENTS

- a. **Allegation of Misconduct.** Any member of the University community or other person who wishes to make an Allegation shall contact the RIO. The allegation should include sufficient detail and documentation to facilitate the inquiry process.

The RIO shall notify the Respondent promptly of an Allegation and advise both the Complainant and the Respondent of their right to be advised by Counsel during all Misconduct Proceedings.

The RIO shall advise the Provost of all Allegations.

- b. **Preliminary Assessment.** In the event of an Allegation, the RIO shall promptly conduct a Preliminary Assessment to determine whether an Inquiry is warranted.
- c. **Purpose and Nature of 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.
- d. **Preliminary Assessment - Standard for Determination.** The RIO 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.

- e. **Inquiry Warranted.** If the RIO determines that an Inquiry is warranted, the RIO shall prepare a Preliminary Assessment referral which explains the basis for his or her determination. The RIO shall transmit copies of the Preliminary Assessment referral to the Respondent and the Provost. 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 referral.

After completing the Preliminary Assessment referral, the RIO shall immediately initiate an Inquiry.

- f. **Inquiry Not Warranted.**

- (1) Preliminary Assessment Report. 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 Provost.

- (2) End of Review. The RIO's determination that an Inquiry is not warranted shall conclude the University's review of that Allegation.

- g. **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 Section XII(a)(1) below.

## VII. INQUIRY

- a. **Committee.** If the RIO determines that an Inquiry is warranted, she or he shall promptly appoint a Committee of Inquiry of at least three members, chosen for their pertinent expertise. While Inquiry Committees will usually be composed of University faculty, they may also include persons other than University faculty when the RIO determines that such persons have experience or expertise useful to the Inquiry. The Inquiry Committee shall select one of its members to act as its chairperson.
- b. **Charge.** The RIO shall draft a Charge to the Inquiry Committee based upon the Preliminary Assessment referral. The RIO shall submit that Charge and a copy of the Preliminary Assessment referral to the Inquiry Committee and the Respondent at the beginning of the Inquiry. Based on the evidence reviewed during the Inquiry phase, the RIO may modify the initial charge to the Inquiry



Committee.

- c. **Briefing.** Before the Inquiry begins, the RIO and an attorney from the Office of the General Counsel shall brief the Inquiry Committee on these Procedures, other relevant University regulations, and legal and procedural issues that the Inquiry Committee is likely to encounter in conducting the Inquiry.
- d. **Standard for Determination.** The Inquiry Committee shall conduct the Inquiry to determine whether an Investigation is warranted. A member of an Inquiry Committee shall determine that an Investigation is warranted if, in her or his judgment, an Investigation Committee could reasonably conclude that Misconduct occurred. To so determine, the member of the Inquiry Committee must find that the Respondent's alleged conduct could constitute Misconduct and that there is credible Evidence to support further review of the Allegation, but must also find that there is sufficient credible Evidence and credible Evidence of such merit that an Investigation Committee could reasonably conclude, in accordance with the criteria in Section VIII(e) below, that Misconduct occurred.
- e. **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 Committee, like the RIO, are not obligated to conduct any interviews or hearings on the Allegation or to engage in an exhaustive review of all Evidence relevant to the Allegation. When a majority of the members of the Inquiry Committee concludes that an Allegation warrants an Investigation, the Inquiry Committee shall proceed to draft the Inquiry report.
- f. **Assistance for Panel.** The RIO shall secure for the Inquiry Committee such special scientific or technical assistance as it requests to evaluate an Allegation.
- g. **RIO.** The RIO shall not participate in the deliberations of the Inquiry Committee or vote on whether an Investigation is warranted. The Inquiry Committee may request the assistance of the RIO during its deliberations and in the preparation of the Inquiry report, but shall not seek the RIO's opinion as to whether an Investigation is warranted.
- h. **Timing.** Every effort shall be made to complete the Inquiry within 60 days of its inception unless circumstances warrant a longer period, in which event the RIO shall notify the Respondent of the reason for the delay and the date on which the RIO expects that the Inquiry will be completed. The Provost shall decide whether the delay is warranted. If the Provost determines that it is, the RIO shall so notify the Respondent. If the Provost finds the delay unwarranted, the RIO

shall work with the Respondent, and the Inquiry Committee 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 Provost shall make the RIO's report about the delay part of the Misconduct Proceeding Records.

**i. Inquiry Report.**

- (1) Content. The Inquiry Committee shall prepare an Inquiry report 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 name and position of the Complainant or other source of the Allegation;
  - (C) the nature of the alleged Misconduct and how it does or does not fit within the definition of Misconduct;
  - (D) a description of the Evidence it reviewed and the sufficiency, credibility, and merit of that Evidence;
  - (E) summaries of any interviews it conducted; and
  - (F) a determination of whether an Investigation is warranted.
- (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) Investigation Warranted. If the Inquiry Committee determines that an Investigation is warranted, the Inquiry report may be summary in nature, provided that the Inquiry Committee sets forth the Evidence that supports its determination in sufficient detail for the Respondent and an Investigation Committee to understand the basis for the Inquiry Committee's decision.
- (4) Investigation Not Warranted. If the Inquiry Committee determines that an Investigation is not warranted, the Inquiry report 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.

- (5) 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 (7) days of receipt of the draft Inquiry report. If the Respondent comments on the draft Inquiry report, the Inquiry Committee 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.
- (6) Provost Opinion on Final Draft Report.
  - (A) After making any changes it deems appropriate in the draft Inquiry report in light of the Respondent's comments, the Inquiry Committee shall prepare a final draft of the Inquiry report. The RIO shall send the Provost a copy of the final draft of the Inquiry report, attaching any RIO comments regarding procedural questions and concerns. Within 14 days after delivery of the final draft Inquiry report to the Provost, the Provost may submit an opinion to the RIO, the Responsible Administrator, and the Inquiry Committee on either or both of the following grounds:
    - (i) If the Provost, with advice from the Office of the General Counsel, finds that the final draft Inquiry report reflects procedural error by the Inquiry Committee in conducting the Inquiry, the Provost shall so inform the RIO and shall identify and explain the Inquiry Committee's procedural error. The Inquiry Committee shall either correct the error before completing the Inquiry and the Inquiry report or shall notify the Provost in, or concurrently with the issuance of, the final Inquiry report that it does not believe a material procedural error occurred.

If the Provost finds that the Inquiry Committee's determination, as set forth in the final draft Inquiry report, is substantively wrong because the Evidence does not support the Inquiry Committee's determination, the Provost shall so inform the RIO and shall identify and explain the reason the Provost believes the Inquiry Committee's determination to be in error. The Inquiry Committee shall reconsider its decision in light of the opinion by the Provost. If the Inquiry Committee changes its determination in light of the opinion by the Provost, it

shall submit a new draft of the Inquiry report to the Respondent for further comment. If the Inquiry Committee does not change its determination in light of the opinion by the Provost, the Inquiry Committee shall respond to the Provost in completing the Inquiry report and make any changes in the Inquiry report that it deems appropriate in light of the opinion by the Provost.

- (B) The opinion by the Provost shall be included as an appendix to the final Inquiry report.

(7) Distribution of Final Report. The RIO shall send the Provost and the Respondent a copy of the final Inquiry report.

**j. Determination regarding Investigation.**

- (1) Initiation of Investigation. If a majority of the members of the Inquiry Committee determine that an Allegation warrants an Investigation, the RIO shall initiate an Investigation.
- (2) Provost Override - Initiation of Investigation. If a majority of the members of the Inquiry Committee determine that an Investigation is not warranted, the Provost may, within 14 days of receiving the final Inquiry report, issue a decision to the RIO and the Respondent overruling the Inquiry Committee for stated cause and instructing the RIO to initiate an Investigation immediately. Upon receiving the decision of the Provost, the RIO shall initiate an Investigation.
- (3) No Investigation. If a majority of the members of the Inquiry Committee determine that an Investigation is not warranted and the Provost does not overrule the determination of the Inquiry Committee, the determination of the Inquiry Committee will conclude the University's review of that Allegation, except as provided in Section XI below.
- (4) Dissent. Any member of the Inquiry Committee who does not agree with the determination of the majority of the Inquiry Committee may file a dissent to the Inquiry report.
- (5) Bad Faith. If a majority of the members of the Inquiry Committee 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 Inquiry Committee shall refer the matter for administrative review and appropriate action, as set forth in Section XII(a)(1) below.

- k. **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, if one was issued, the opinion of the Provost.

## VIII. INVESTIGATION

- a. **Committee.** The RIO shall make every effort to initiate an Investigation within 30 days of the Inquiry Committee's determination, or the decision of the Provost, that an Investigation is warranted. The RIO shall appoint an Investigation Committee of not less than three (3) members, chosen for their pertinent expertise. While Investigation Committees will usually be composed of University faculty, they may also include persons other than University faculty when the RIO determines that such persons have experience or expertise useful to the Investigation. The Investigation Committee shall select one of its members to act as its chairperson.
- b. **Notifications.**
  - (1) Notification - Internal. The RIO shall notify the Provost, and the General Counsel of the initiation of the Investigation.
  - (2) Notification - Funding Source. When the alleged Misconduct involves Research or Creative Activity supported by an external (non-University) funder, the RIO shall 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, if applicable.
- c. **Charge.** The RIO shall draft a Charge to the Investigation Committee based on the Inquiry report and, if one was issued, the decision of the Provost. The RIO shall submit a copy of that Charge, the Preliminary Assessment referral, the Inquiry report, and, if one was issued, the overruling decision of the Provost to the Investigation Committee and the Respondent at the beginning of the Investigation.
- d. **Briefing.** Before the Investigation begins, an attorney from the Office of the General Counsel and the RIO shall brief the Investigation Committee on this Policy and Procedure, other relevant University regulations, and legal and procedural issues that the Investigation Committee are likely to encounter in conducting the Investigation.
- e. **Standard for Determination.** The Investigation Committee 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, a majority of the members of the Investigation

Committee must find:

- (1) a significant departure from accepted practices of the relevant research community; and
- (2) that the Misconduct was committed intentionally, knowingly, or recklessly; and
- (3) that the Allegation was proven by a Preponderance of the Evidence.

**f. Evidence Review.** The Investigation Committee shall examine all Evidence that it deems pertinent to the Allegation. At its discretion, the Investigation Committee 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 Committee.

**g. Testimony.**

- (1) Interviews or Hearing. When possible, the Investigation Committee shall conduct interviews or a hearing with the Complainant, the Respondent, and other persons, if any, who have material information regarding the Allegation.
- (2) Transcript. The RIO shall arrange for the preparation of a transcript of each witness's interview or hearing testimony and shall send the transcript to the witness for comment or correction. The witness shall have seven (7) 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 or hearing testimony.

**h. Assistance for Committee.** If the Investigation Committee 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 Committee the assistance that it requests.

**i. RIO.** The RIO shall not participate in the deliberations of the Investigation Committee or vote on whether Misconduct occurred. The Investigation Committee may request the assistance of the RIO during its deliberations and in the preparation of the Investigation report, but shall not seek the RIO's opinion as to whether Misconduct occurred.

**j. Timing.** The Investigation Committee shall use their best efforts to complete the Investigation within 120 days of its inception.

- (1) Extension. If the Investigation cannot be completed in that period, the RIO may request an extension from the Provost, in which event the RIO shall notify the Respondent of the reason for the delay and the date on which the RIO expects that the Investigation will be completed. The RIO's report about the delay shall be included in the Misconduct Proceeding Records. If the alleged Misconduct involves Research or Creative Activity 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 Committee's activities to date and an estimate of the completion date of the Investigation.
- (2) Notice of Stay. If the Investigation is stayed and the alleged Misconduct involves Research or Creative Activity 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.

**k. Investigation Report.**

- (1) Content. The Investigation Committee shall prepare a written Investigation report. It shall include:
  - (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 relevant application or grant number, if the alleged Misconduct involves sponsored Research or Creative Activity;
  - (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 or hearing 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 Section VIII(e) 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 these Procedures and any other University policies and procedures relevant to the Investigation.
- (2) Misconduct Finding. If the Investigation Committee finds that Misconduct occurred, the Investigation report must include:
- (A) the Investigation Committee's determination that:
    - (i) there was a significant departure from accepted practices of the relevant research community; and
    - (ii) the Misconduct was committed intentionally, knowingly, or recklessly; and
    - (iii) 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 Investigation Committee does not find that Misconduct occurred, it shall explain the reasons for its decision in the Investigation report, with specific reference to the pertinent criteria set forth in Section VIII(e) above.
- (4) 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 Committee 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.
- (5) Provost Opinion on Final Draft Report.
- (A) After making any changes it deems appropriate in the draft Investigation report in light of the Respondent's comments, the Investigation Committee shall prepare a final draft of the Investigation report. The RIO shall send the Provost a copy of the final draft of the Investigation report, attaching any RIO



comments regarding procedural questions and concerns. Within 14 days after delivery of the final draft Investigation report to the Provost, the Provost may submit an opinion to the RIO, the Responsible Administrator, and the Investigation Committee on either or both of the following two grounds:

- (i) If the Provost, with advice from the Office of the General Counsel, finds that the final draft Investigation report reflects procedural error by the Investigation Committee in conducting the Investigation, the Provost shall so inform the RIO and shall identify and explain the Investigation Committee's procedural error.
  - (ii) The Investigation Committee shall either correct the error before completing the Investigation and the Investigation report or shall notify the Provost in, or concurrently with the issuance of, the final Investigation report that it does not believe a material procedural error occurred.
  - (iii) If the Provost finds that the Investigation Committee's determination, as set forth in the final draft Investigation report, is substantively wrong because the Evidence does not support the Investigation Committee's determination, then the Provost shall so inform the RIO and shall identify and explain the reason the Provost believes the Investigation Committee's determination to be in error. The Investigation Committee shall reconsider its decision in light of the opinion by the Provost. If the Investigation Committee changes its determination in light of the opinion by the Provost, it shall submit a new draft of the Investigation report to the Respondent for further comment. If it does not change its determination in light of the opinion by the Provost, the Investigation Committee shall respond to the opinion by the Provost in completing the Investigation report and make any changes in the Investigation report that it deems appropriate in light of the opinion by the Provost.
- (B) The opinion by the Provost shall be included as an appendix to the final Investigation report.
- (6) Dissent. Any member of the Investigation Committee who does not agree with the determination of the majority of the Investigation Committee may file a dissent to the Investigation report.

- l. Bad Faith.** If a majority of the members of the Investigation Committee 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 Investigation Committee shall refer the matter for administrative review and appropriate action as set forth in Section XII(a)(1) below.
- m. Final Report; Provost Overrule.**
- (1) Copy to Provost. The RIO shall send the Provost a copy of the final Investigation report.
  - (2) Overrule; New Investigation. If the Provost believes the Investigation Committee's determination is wrong, the Provost may, within 14 days of receiving the final Investigation report, issue a written decision to the RIO overruling the Investigation Committee for stated cause and instructing the RIO to impanel another Investigation Committee immediately.
  - (3) Second Investigation Committee. If a second Investigation Committee is impaneled, it shall conduct a new Investigation. Subject to the Respondent's right to appeal pursuant to Section IX below, the second Investigation Committee's determination shall be binding.
- n. Distribution of Final Report; Comments.** The RIO shall send a copy of the final Investigation report to the Respondent. The Respondent may deliver comments on the Investigation report to the RIO within 14 days of the delivery of the final Investigation report to the Respondent. The RIO shall include any such comments in the Misconduct Proceeding Records.
- o. Notifications.**
- (1) 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, including those portions of the Investigation report that address the Complainant's role and testimony, if any, in the Investigation.
  - (2) Federal Support. When the alleged Misconduct involves Research or Creative Activity supported by a federal funding source, the RIO shall submit the Investigation report to it. It may accept the Investigation report, ask for clarification or additional information, which shall be provided by the RIO, or commence its own independent investigation.
  - (3) Other Funding Source. When the Alleged Misconduct involves

Research or Creative Activity 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 and such other information, if any, as it may request in response to the RIO's notification.

## **IX. APPEAL**

- a. Right.** A Respondent who has applied for or received support from a federal funding source for the Research or Creative Activity in relation to which the Misconduct occurred has the right under certain circumstances to appeal a finding of Misconduct by an Investigation Committee 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.
- b. External Appeal Record.** If the Respondent appeals a finding of Misconduct by an Investigation Committee to a federal funding source, the RIO shall attempt to obtain copies of all documents filed in that appeal.
- c. Procedure.**
  - (1) **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 Provost for decision.
  - (2) **Review and Recommendation.** The Provost 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 these Procedures to review the Misconduct Proceeding Records and the appeal and make recommendations to the Provost.
  - (3) **Request for Additional Information.** The Provost, or the Provost'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.
  - (4) **Basis for Decision.** The Provost'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.

- d. **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 Provost and the Respondent of the new Evidence. If the Provost concurs that the new Evidence could materially affect the finding of Misconduct, the Provost shall remand the finding of Misconduct to the Investigation Committee that made the finding for its consideration of the new Evidence. The Investigation Committee shall notify the Provost within 14 days that it finds the new Evidence immaterial to its prior finding or that it wishes to reopen the matter. The Provost may extend this period for good cause by notice to the Respondent and the RIO.
- e. **Decision.** The Provost 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 Provost may extend this period for good cause by notice to the Respondent and the RIO.

## X. FINAL RESOLUTION AND OUTCOME

- a. **Exoneration.** If the Preliminary Assessment results in a determination that an Inquiry is not warranted, or if the Inquiry Committee decides that an Investigation is not warranted, or if an Investigation Committee does not find that Misconduct has occurred, or if a finding of Misconduct is reversed on appeal, the Responsible Administrator and the RIO shall make diligent efforts, if requested by the Respondent, to restore the Respondent's reputation. These efforts shall be undertaken in consultation with the Respondent, provided that they shall: (1) be reasonable and practicable under the circumstances and proportionate to the damage to the Respondent's reputation as a result of the Allegation; (2) be consistent with applicable federal funding source expectations, if the Research or Creative Activity which was the subject of the Allegation was supported by that federal funding source; and (3) 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 these Procedures.

### b. **Misconduct Found.**

(1) Actions. After all appeals have been decided, or the opportunity for an appeal has expired, and there is a final decision that Misconduct has occurred:

(A) the Responsible Administrator, after consultation with the Provost, 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 Responsible Administrator 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

(B) the RIO, after consultation with the Office of the General Counsel and the Provost, 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.

(2) **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.

(3) **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.

(4) **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 or Creative Activities which they supported.

(5) **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 another Allegation of Misconduct against the same Respondent has not been sustained and the University has an obligation under Section X(a)(2) above with respect to the unsustained Allegation.

**c. New Evidence.** After all appeals have been decided, or if the opportunity for appeal has expired, and there is a final decision, that Misconduct has occurred, if 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 Investigation Committee that conducted the Investigation of the Misconduct. The Investigation Committee shall promptly consider the new Evidence and notify the Provost of its impact on its finding of Misconduct and on its Investigation report. Based on the new Evidence and the information from the Investigation Committee, the Provost may reverse or affirm the previous finding of Misconduct, or remand the matter to the Investigation Committee

to conduct a new Investigation in light of the new Evidence. The Provost shall issue that decision with stated rationale within 30 days of receiving the notice from the Investigation Committee, but may extend this period for good cause by notice to the Respondent and the RIO.

- d. **Termination.** If the Provost terminates the review of any Allegation under Section IV(f) or V(d), an explanation for such termination shall be included in the Misconduct Proceeding Records.

## **XI. UNACCEPTABLE AND QUESTIONABLE RESEARCH PRACTICES**

- a. **Referral from Proceedings.** An Inquiry Committee may find that, while a Respondent's conduct does not warrant an Investigation, it nevertheless constitutes an Unacceptable Research Practice or Questionable Research Practice. Similarly, an Investigation Committee may find that, while a Respondent's conduct does not constitute Misconduct, it nevertheless constitutes an Unacceptable Research Practice 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.
- b. **Discovery and Report.** Unacceptable Research Practices or Questionable Research Practices may also be discovered in circumstances other than a review of an Allegation under these Procedures. When that happens, the alleged Unacceptable Research Practice 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.

## **XII. BAD FAITH**

- a. **Complainant or Witness.**
  - (1) **Referral for Action.** If the RIO, an Inquiry Committee, or an Investigation Committee 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.
  - (2) **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.

### **XIII. PROTECTING PARTICIPANTS IN MISCONDUCT PROCEEDINGS**

**a. 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 Committee member, Investigation Committee member, Counsel, Advisor, Responsible Administrator, or RIO, or who has otherwise cooperated in the review of an Allegation under these Procedures. These efforts shall be:

- (1) reasonable and practical under the circumstances;
- (2) proportionate to the risk to the individual's position and reputation;  
and
- (3) consistent with applicable funder expectations, if the Research or Creative Activity which was the subject of the Allegation was supported by a federal funding source.

**b. Retaliation.**

- (1) **Prohibition.** University employees and students shall not engage in or threaten Retaliation.
- (2) **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.
- (3) **Discipline.** The University views Retaliation by a University employee or student as grounds for disciplinary action pursuant to applicable University policies, procedures, and contracts.
- (4) **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 or Creative Activity 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.

On an interim basis, the RIO shall, after consultation with the Provost, and the Office

of the General Counsel, modify these Procedures to incorporate relevant requirements of new laws, regulations, executive orders, and other governmental requirements as such laws, regulations, orders, and requirements take effect. The RIO shall promptly report these changes to the Provost.

Replacement effective June 29, 2017 for:

*III-1.10(A) University of Maryland Procedures for Scholarly Misconduct*



## **APPENDIX**

### **Appointment and Evaluation of the Research Integrity Officer**

#### **I. APPOINTMENT OF THE RIO**

1. The RIO shall be appointed from the tenured faculty by the Provost, and shall serve at the pleasure of the Provost.
2. The RIO shall report to the Provost and shall keep her or him informed about the progress of cases under these Procedures and about the educational and other activities of the RIO's office. The RIO shall also perform such other duties as are assigned the RIO under these Procedures.
3. Should the RIO recuse himself or herself from the RIO's duties under these Procedures with respect to a particular Allegation, the Provost shall appoint a replacement RIO.

#### **II. EVALUATION OF THE RIO**

1. The RIO shall submit a report annually to the Provost which shall set forth the number of cases handled by the RIO's office during the previous academic year and their outcomes, along with information on the educational and other activities of the RIO's office during that academic year.
2. The Provost shall evaluate the performance of the RIO biennially, pursuant to criteria established by the Provost.

#### **III. ADVISORY COMMITTEE TO THE RIO**

The College-level Research Integrity Officers shall serve as an advisory resource for the RIO on issues relating to research misconduct and these Procedures.

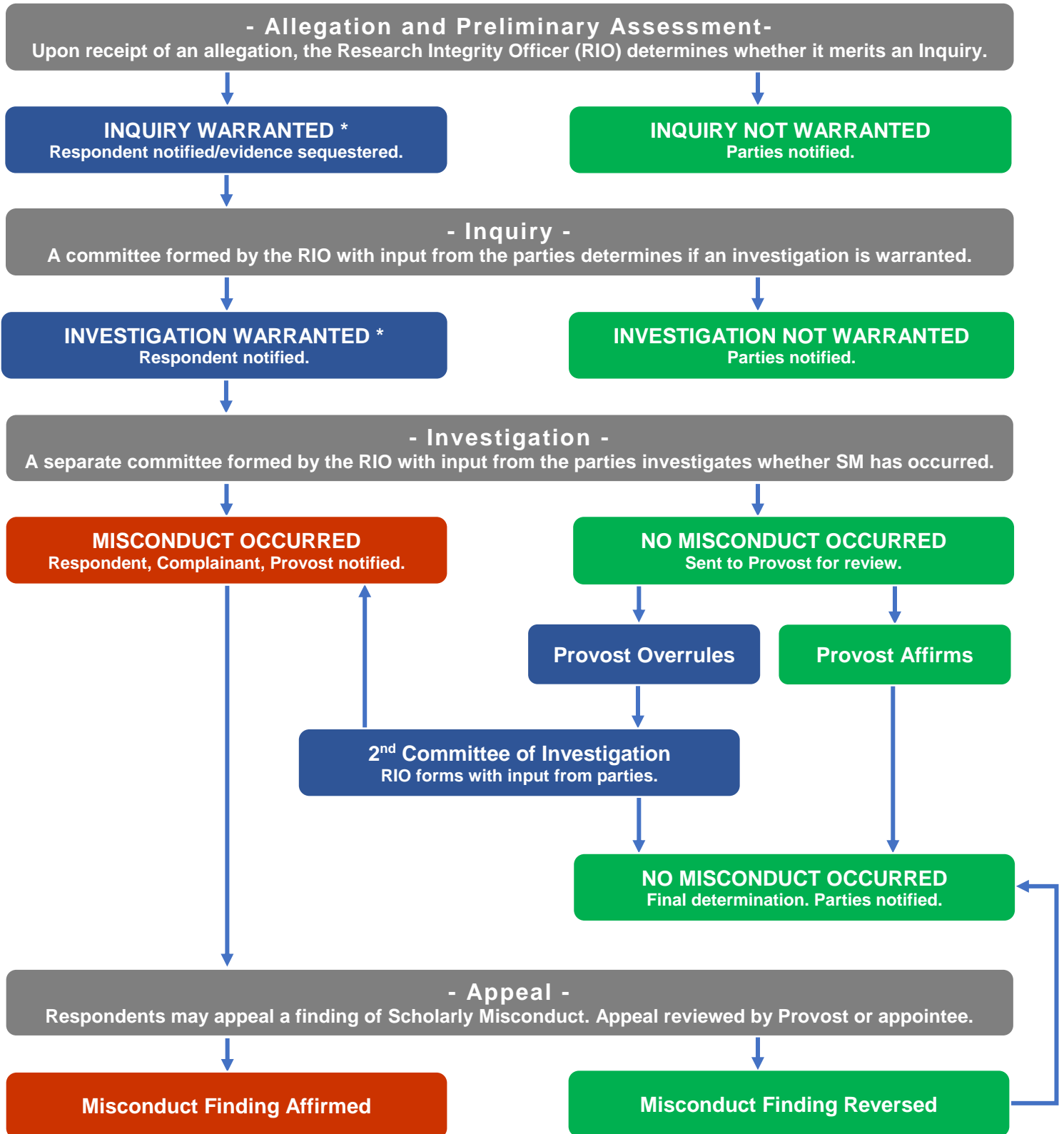
## Appendix 3: Research on Policies at Big 10 and Peer Institutions

	Does the policy allow for interim actions?	Scope (funding source relevant, other types of misconduct)	Does misconduct definition account for accepted practices within a discipline?	Is self-plagiarism addressed?	Due Process Rights for Respondents	Who serves as the RIO?	What is role of counsel?	What is the role of the Provost?	Policy URL
<b>University of Iowa</b>	Yes	Applies to any research, funded or not. No reference to scholarly or professional misconduct.	Yes	Does not cover.	Ability to respond to reports and appeal disciplinary actions, challenge committee members.	Appointed by VP for Research and Economic Development	None specified.	If the Provost is the appropriate administrator, takes action based on findings.	<a href="#">Ethics in Research</a>
<b>Indiana University</b>	Yes	Only to externally funded research. No reference to scholarly or professional misconduct.	Yes	Does not cover.	Informed of allegations that do not warrant action. Notified of inquiries, process and policy explained. Can respond to inquiry report. Can respond to investigation report, access all evidence. Responses part of record. Can appeal determination or sanctions. Can challenge committee members. Good faith effort to be interviewed.	RIO identified by Deciding Official (official appointed by President to implement policy)	Respondent can be accompanied at interviews by counsel, may advise but not participate.	None specified.	<a href="#">Research Misconduct</a>
<b>University of Illinois-Urbana Champaign</b>	Yes	No reference to funding. Also covers other forms of misconduct.	Yes	Does not cover.	Can challenge committee members, can respond to the inquiry and investigation reports. Will be notified of any new allegations that arise, will be interviewed and allowed to present witnesses, see evidence. To be advised by counsel.	Appointed by Vice-Chancellor for Research.	Can consult with counsel throughout; may advise but not participate.	When complaints involve multiple units and deans disagree about whether an inquiry is needed, settles dispute. Is consulted by the Chancellor in final decision.	<a href="#">Policy and Procedures on Integrity in Research and Publication</a>
<b>University of Michigan</b>	Yes	No reference to funding. Also covers other forms of misconduct.	No	Does not cover.	Can challenge committee members. Can respond to allegation, inquiry report (part of record).	Appointed by Vice President for Research.	Can consult with counsel throughout; may advise but not participate.	If respondent is a faculty member, Provost consulted to determine if it will be involved in the review.	<a href="#">Policy Statement on the Integrity of Scholarship</a>
<b>Michigan State University</b>	Yes	No reference to funding. Also covers other forms of misconduct.	Yes	Does not cover.	Can challenge RIO's determination following preliminary assessment, committee members, may object to decisions throughout process. Can respond to inquiry and investigation reports. Can insist on hearings in place of private interviews.	Appointed by the President, reports to VP for Research and Graduate Studies.	Advises throughout, no information on nature of engagement in hearings.	Consulted (along with President, VPRGS, General Counsel) at various points. Consults, along with VPRGS, on appropriate disciplinary actions.	<a href="#">Procedures Concerning Allegations of Misconduct in Research and Creative Activities</a>
<b>University of Minnesota</b>	Yes	No reference to funding. Also covers other forms of misconduct.	Yes	Does not cover.	Conference upon notification to explain process. Can review evidence supporting the allegation. May object to committee members. Can respond to inquiry report.	RIO is the Associate VP for Research. Deciding Officer is VP for Research	Can be accompanied by advisor.	None specified.	<a href="#">Research Misconduct</a>
<b>University of Nebraska</b>	Yes	Applies to any research, funded or not. Applies to generalizable knowledge, does not apply to classroom exercises.	No	Does not cover.	Can decline to have an Academic Rights and Responsibilities Committee (ARCC) Observer present. Can challenge committee members, can respond to inquiry and investigation reports. Can access all evidence.	Appointed by Vice Chancellor for Research. Deciding Officer is Vice Chancellor for Research.	Can consult with counsel throughout; may advise but not participate.	None specified.	<a href="#">Policy and Procedures for Responding to Allegations of Research Misconduct</a>

**RM Peer Research**

	Does the policy allow for interim actions?	Scope (funding source relevant, other types of misconduct)	Does misconduct definition account for accepted practices within a discipline?	Is self-plagiarism addressed?	Due Process Rights for Respondents	Who serves as the RIO?	What is role of counsel?	What is the role of the Provost?	Policy URL
<b>Northwestern University</b>	No	Applies to any research, funded or not. Applies to generalizable knowledge. No reference to scholarly or professional misconduct.	Yes	Does not cover.	Has right to be interviewed by investigation committee. Can comment on inquiry and investigation reports.	RIO is the Director of the Office of Research Integrity. Appointed by Vice President for Research.	Legal counsel only permitted at committee meetings by express invitation of committee. Non-attorney colleagues may advise respondent at meetings, but may not participate.	Provost consults with Vice President for Research and RIO, is responsible for imposing sanctions.	<a href="#">Policy for Reviewing Alleged Research Misconduct</a>
<b>Ohio State University</b>	Yes	Applies broadly to research and scholarship.	No	Does not cover.	Meeting with dean and Coordinator to review process. Has access to evidence. May object to committee members. Can respond to inquiry, investigation reports.	RIO is Vice President for Research. Assisted by a Coordinator, who fulfills many of our RIO's duties.	Can consult with legal counsel. Legal counsel or advisor may attend interviews but may not participate.	Is informed throughout the process.	<a href="#">University Policy and Procedures Concerning Research Misconduct</a>
<b>Penn State University</b>	Yes	Unclear.	No	Does not cover.	Can object to committee members. Can respond to inquiry, investigation reports.	RIO is the Associate Vice President for Research and Director of the Office for Research Protections. Designated by the Vice President for Research.	Can consult with legal counsel. Legal counsel or advisor may attend interviews but may not participate.	None specified.	<a href="#">Addressing Allegations of Research Misconduct</a>
<b>Purdue University</b>	No	No reference to funding, does not cover other types of misconduct.	No	Does not cover.	Can object to committee members. Can respond in person or in writing to any allegation. Can respond to inquiry, investigation reports. May attend interviews with witnesses.	Appointed by Provost.	Can consult with counsel throughout; may advise but not participate.	Appoints RIO, any appeals committees. Imposes sanctions.	<a href="#">Research Misconduct</a>
<b>University of Wisconsin</b>	Yes	No reference to funding, does not cover other types of misconduct.	No	Does not cover.	May review allegations in initial phase. Can respond to inquiry, investigation reports. Has right to be interviewed, review evidence. Will be notified of any new allegations that arise. May object to members of investigation committee.	RIO not specified. Provost is Deciding Official.	Advises throughout, no information on nature of engagement in hearings.	Provost is Deciding Official. Makes final determination, imposes sanctions.	<a href="#">Misconduct in Scholarly Research</a>
<b>Rutgers</b>	No	References funding sources, implication is that it does not apply to other types of misconduct.	No	Explicitly does not cover.	Can respond to inquiry, investigation reports. Can be interviewed and present witnesses. Will be notified of any new allegations that arise. Can object to committee members.	RIO is VP for Research and Economic Development. VPRED makes final decision.	None specified.	None specified.	<a href="#">Research Misconduct</a>
<b>UC - Berkeley</b>	Yes	Applies regardless of funding source.	Yes	Does not cover.	Notified of process at start of inquiry phase. Can object to committee members. Can comment on inquiry, investigation reports.	Vice Chancellor for Research (VCR) may appoint, or serve as, the RIO.	None specified.	Executive Vice Chancellor (Provost) determines discipline for faculty respondents in conjunction with VCR.	<a href="#">Research Misconduct: Policies, Definitions and Procedures</a>
<b>University of North Carolina-Chapel Hill</b>					Policy not available.				
<b>UCLA</b>	No	Applies to production of generalizable knowledge. Does not apply to teaching, classroom exercises.	Yes	Does not cover.	Can respond to inquiry, investigation reports.	RIO is the Vice Chancellor for Research.	Advises throughout, no information on nature of engagement in hearings.	None specified.	<a href="#">Responding to Allegations of Research Misconduct</a>

## Appendix 4: Diagram of Scholarly Misconduct Process



**\*The Designated Officer may overrule any determination that an Inquiry or Investigation is not warranted.**

- If no finding of SM is made, respondents may still be referred for Unacceptable/Questionable Research Practices or potential violations of other University, USM, or state policies/laws.
- The University will take efforts to restore the reputation of Respondents if an inquiry or investigation is found Not Warranted, or if it is determined that no SM occurred.
- If a finding of SM is made, a Responsible Administrator determines/takes action; the RIO will work to correct the research record.



## DIVISION OF RESEARCH

February 15, 2019

### MEMORANDUM

**TO:** Jack Blanchard  
Chair, Faculty Affairs

**CC:** John Bertot  
Associate Provost for Faculty Affairs

**FROM:** George Hurtt, Chair, Research Council *George C Hurtt*

**SUBJECT:** Comments on University of Maryland Research Misconduct Policy

Thank you for briefing me and allowing the Research Council to provide feedback on the University of Maryland Policy and Procedures Concerning Research Misconduct. Following our in person meeting, I shared the policy and accompanying presentation with members of the Research Council for input. This memo acknowledges and summarizes our review of and perspective on the policy.

As a public research institution, the University of Maryland, College Park (UMD) is broadly engaged in the discovery and dissemination of new knowledge. Unethical behavior in research and scholarship is unacceptable and could cause significantly harm the institution its patrons. The University's approach to this issue needs to be proactive and institutionalized, not ad hoc. This document presents a clear and logical policy and set of procedures for handling such cases and is a major advance. While responses to allegations of research misconduct will vary with each case, we believe that the policy in the form that was provided to the Research Council strikes a sound and reasonable way by which such allegations will be reviewed.

Moving forward, a common understanding of this policy and its included expectations and responsibilities is critical and we strongly encourage the Faculty Affairs Committee to thoroughly discuss and deliberate the best means by which the new policy can be broadly, widely and effectively disseminated to the entirety of the UMD research community. We also hope to see that adequate resources are allocated to enforce the policy and make it as effective as possible. Finally, the Research Council recognizes the inherent need to review policies on a regular basis, so that they can be adjusted and improved as needed, and would recommend that this policy be reviewed no later than after five (5) years of implementation.



**Interim University of Maryland Policy and Procedures Concerning Research Misconduct (Senate Document #17-18-07)**  
**Faculty Affairs Committee | Chair: Patricio Korzeniewicz**

The Senate Executive Committee (SEC) and Senate Chair Falvey request that the Faculty Affairs Committee review the interim University of Maryland Policy and Procedures for Research Misconduct (III-1.10[A]).

Specifically, it asks that you:

1. Review similar policies and procedures for research misconduct at the University of Maryland - Baltimore, Big 10, and other peer institutions.
2. Review the implementation of the University of Maryland - Baltimore, Big 10, and other peer institution research misconduct procedures, to include the infrastructure to support investigations, responsible division(s), and the composition of review committees.
3. Consider how the University's research misconduct policy and procedures should address infrastructure to support investigations, units responsible for the review process, joint appointments with the University of Maryland - Baltimore, and the composition of review committees.
4. Consult with the Associate Provost for Faculty Affairs.
5. Consult with the Vice President for Research and the University Research Council.
6. Consult with representatives of the Intellectual Property Committee.
7. Consult with representatives of the Conflict of Interest Committee.
8. Consult with the Office of General Counsel regarding the interim policy and on any proposed changes to the policy.
9. If appropriate, recommend whether the interim policy should be revised and submit recommended revisions to the interim policy for Senate consideration.

We ask that you submit a report to the Senate Office no later than **March 30, 2018**. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.