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## Policy and Procedures for Responding to Allegations of Research Misconduct

Office of the Vice President for Research and Dean of the Graduate School

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**UNIVERSITY OF MAINE**  
**POLICY AND PROCEDURES FOR RESPONDING TO ALLEGATIONS OF**  
**RESEARCH MISCONDUCT**

University of Maine  
Office of the Vice President for Research and Dean of the Graduate School

Approved: 09/17/1999

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11/26/2023

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## I. Policy Statement

The University of Maine (the University) is committed to fostering an environment in which the highest ethical standards in the conduct of Research and other scholarly activities are maintained. All members of the University community engaged in Research, including faculty, staff and students, are expected to adhere to the highest standards of Research integrity to protect the accuracy and reliability of the Research Record and published results. This Policy applies to all Research and scholarship conducted within the University community, irrespective of discipline or funding source, if any. Individuals accused of Research Misconduct are presumed innocent of any Allegations until the contrary has been established by a final decision reached under this Policy.

## II. Purpose and Nature of Proceedings

In addition to upholding its mission and values, the University has explicit obligations to federal agencies to safeguard Research integrity. In seeking funds from these agencies, the University is required to establish and abide by uniform policies and procedures, compliant with 42 CFR Part 93, and other relevant federal Research Misconduct regulations [e.g., National Science Foundation's (NSF's) Research Misconduct regulation 45 CFR §689], for investigating and reporting instances of alleged or apparent Research Misconduct and related activities. To promote the University's compliance with federal regulations and best practices for dealing with Research Misconduct and to protect the integrity and reputation of the University and its scholars from false or unproven Allegations of Research Misconduct, the University has developed this Policy. This Policy only applies to Allegations of Research Misconduct that occurred within six years of the date of receipt of the Allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions as provided by the relevant oversight agency (e.g. in 42 CFR § 93.105(b)).

The Proceedings are to be carried out by neutral parties who strive to protect the Respondent and Complainant through fairness, due process and a spirit of a Good Faith inquisitive search for truth. The Proceedings are not disciplinary in nature. While certain individuals are vested with authority to take administrative actions related to a Proceeding, and to refer a finding or Allegation to other University offices to take disciplinary action, this Policy does not confer on anyone the authority to take disciplinary action. This policy should not be construed to limit the rights of any member of the University community, including those of union members as outlined in their collective bargaining agreements, and non-represented employees and students as outlined in their documents and policies on rights, rules and responsibilities.

## III. Definitions

**Allegation:** A disclosure of possible Research Misconduct to the Research Integrity Officer (RIO) or to any University Official through any means of communication.

**Complainant:** Any individual who in good faith makes an Allegation of Research Misconduct. The Allegation may be anonymous. The Complainant need not be a member of the University community.

**Conflict of Interest:** Any personal, professional, or financial relationship that influences or reasonably would be perceived to influence the impartial performance of a duty assigned under this Policy by any individual involved in responding to an Allegation of Research Misconduct under this Policy, including but not limited to: a member of an Inquiry Panel, a member of an Investigation Committee, the Respondent's Dean (or responsible administrator), the RIO, the Deciding Official or the President. See below in this Policy for examples and further explanation and also [University of Maine System \(UMS\) Board Policy 410 Conflicts of Interest](#).

**Deciding Official:** The University official responsible for final determinations over all Research Misconduct matters under this Policy. In the absence of any Conflict of Interest, the Deciding Official (DO) is normally the Vice President for Research and Dean of the Graduate School (VPRDGS). The DO will not be the same individual as the RIO, and cannot serve on the Inquiry Board or Investigation Committee. In the event there is a perceived or actual Conflict of Interest of the DO, the procedures outlined in Section V.G.5 will be followed to identify an alternate DO.

**Evidence:** Any document, tangible item or testimony offered or obtained during a Research Misconduct Proceeding that tends to prove or disprove the existence of an alleged fact.

**Fabrication; Fabricated:** Making up data or results and recording or reporting them. Fabrication excludes synthetic data or test data used for testing or validation.

**Falsification; Falsified:** 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:** As applied to a Complainant or witness, having a belief in the truth of one's Allegation or testimony that a reasonable person in the Complainant's or witness's position could have, based on the information known to the Complainant or witness at the time. An Allegation or cooperation with a Misconduct Proceeding is not in Good Faith if made Knowingly or Recklessly disregarding information that would negate the Allegation or testimony. Good Faith as applied to a committee member, RIO, Dean or any other individual participating in a Proceeding, means cooperating with the Research Misconduct Proceeding by carrying out the duties assigned impartially for the purpose of helping an institution meet its responsibilities under this part. An individual does not act in Good Faith if their acts or omissions are dishonest or influenced by Conflicts of Interest.

**Inquiry:** Information gathering and initial fact finding to determine whether an Allegation warrants an Investigation, as further described in this Policy.

**Intentionally:** To directly engage in Falsification, Fabrication or Plagiarism with the intent or purpose of misleading the reader of the Research Record.

**Investigation:** A formal review of all Evidence to determine if Research Misconduct occurred and by whom, and to recommend appropriate corrective actions and/or sanctions as allowed under this Policy.

**Knowingly:** To engage in Falsification, Fabrication or Plagiarism with actual knowledge, deliberate ignorance, or plain indifference of the Falsification, Fabrication or Plagiarism.

**Personal Counsel:** Lay or legal counsel secured to serve as an advisor to a Respondent, Complainant or witness in Misconduct Proceedings, as more fully described in Section V.I. Representation.

**Plagiarism:** The appropriation of the ideas, processes, results or words of another person, without giving appropriate credit. For purposes of this Policy, Plagiarism excludes self-plagiarism; however, the University may prohibit self-plagiarism in other policies, procedures, rules, or handbooks. For the definition of self-plagiarism, refer to the University Faculty Handbook.

**Preliminary Assessment:** Initial review to determine if each Allegation (a) fits within the definition of Research Misconduct (b) possibly involves federal funds, and (c) is sufficiently credible and specific so that potential Evidence of Research Misconduct may be identified.

**Preponderance of the Evidence:** Proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

**Recklessly:** To commit or allow the commission of, through action or inaction, Falsification, Fabrication or Plagiarism, while aware of an increased risk of Falsification, Fabrication or Plagiarism, or while the risk is so obvious that a reasonable researcher in the relevant Research community should have known. Recklessness is distinguished from negligence, which is when an individual deviates from ordinary care that a typical researcher in the relevant Research community would have exercised, but the individual is unaware that there was a substantial risk of Falsification, Fabrication or Plagiarism.

**Report:** A type of Research Misconduct Proceeding Record including a Preliminary Assessment Report, an Assessment Report, an Inquiry Report, and an Investigation Report, all as more fully defined in this Policy.

**Research:** Systematic Investigation, including Research development, testing, and reporting, designed to develop or contribute to the body of generalizable knowledge in any field. The term encompasses basic Research, applied Research and Research training activities.

**Research Misconduct:** Fabrication, Falsification, or Plagiarism in proposing, performing, or reviewing Research, or in reporting Research results. A finding of Research Misconduct requires 1) that there be a significant departure from accepted practices of the relevant Research community; **and** 2) the misconduct be committed Intentionally, Knowingly or Recklessly; **and** 3) the Allegation be proved by a Preponderance of the Evidence. Research Misconduct does not include honest error or differences of opinion.

**Research Misconduct Proceeding:** Any proceeding under this Policy related to the review of an Allegation, including Preliminary Assessments, Inquiries, Investigations, and Appeals, Challenges and Other Objections and Complaints as described in Section V.K.

**Research Misconduct Proceeding Records:** Any and all of the following:

1. Evidence obtained for any Research Misconduct Proceeding;
2. A record of the RIO's review of other documents, tangible items, and testimony received or secured in connection with that Research Misconduct Proceeding but determined by the RIO to be irrelevant to the Allegation at issue in the Research 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 Preliminary Assessment 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 conducted during an Investigation; and
6. The complete record of an internal appeal from a finding of Research Misconduct.

**Research Record(s):** Any data or results, in any media or format, which embodies the information resulting from Research. A Research Record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; transcripts and audio recordings; videos; photographs; X-ray film; slides; biological materials; electronic files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; medical charts; patient Research files; software code.

**Respondent:** An individual or individuals against whom an Allegation of Research Misconduct is made or who are thought to be responsible. A Respondent must be, or must have been, an employee or a student of the University at the time the Research Misconduct allegedly occurred; or an individual to whom this Policy applies, as articulated in a written agreement.

**Research Integrity Standing Committee (RISC):** A pool of 9-10 senior faculty with relevant subject matter expertise to participate in Research Misconduct Proceedings, as more fully described in IV.E.

**Retaliation:** An adverse action taken against any individual because of their participation in a Research Misconduct Proceeding.

**Research Integrity Officer (RIO):** The University official with the primary responsibility for implementation and administration of this Policy, as more fully defined below in this Policy. The RIO must have a reasonable understanding of both the Federal Regulations and University Policy, and engage in ongoing training on Research



Misconduct, and meet any additional qualifications which the University President may develop with advice from the RISC. The RIO cannot serve on the Inquiry Board or Investigation Committee.

#### **IV. Rights & Responsibilities**

##### **A. Research Integrity Officer (RIO)**

1. The RIO will be appointed by the President (with advice from the RISC) and will serve at the pleasure of the President. The RIO will serve on a continuing basis, except the President may appoint a RIO on an ad hoc basis, at the President's discretion, such as for assisting in managing multiple concurrent cases, or to handle a case if the other RIO is not available or not fully trained. University legal counsel may not serve as RIO while acting in the capacity as legal counsel. The RIO is a neutral individual focused on ensuring due process is followed, as outlined in this Policy. The RIO has no authority to make or influence a decision regarding a finding of Research Misconduct. The RIO has no investigative authority beyond what is provided in this Policy in regard to the Preliminary Assessment. A RIO will manage each Allegation and, in addition to administering the process of the Preliminary Assessment, Inquiry or Investigation, will:
  - a. Advise members of the University community in response to requests for information or informal consultation concerning Research Misconduct;
  - b. Take all reasonable and practical steps to ensure that all currently available Evidence is sequestered either before or at the same time as the University notifies a Respondent of an Allegation. The RIO has the responsibility and authority to sequester and maintain proper chain of custody for any relevant Evidence at any time during a Research Misconduct Proceeding. The RIO will consult with the UMS Office of General Counsel to ensure that all applicable legal and University policy requirements are satisfied;
  - c. Assist the appropriate experts and committees to ensure the fair, competent, thorough and objective conduct of the Assessment, Inquiry and Investigation, including organizing Evidence and conducting interviews; maintain objectivity regarding the veracity of the Allegations and throughout the Misconduct Proceedings to achieve consistency and fairness;
  - d. Facilitate the Inquiry and Investigation, and advise University officials, experts and committees on issues of process and procedures;
  - e. Keep the DO informed of any Allegation(s) filed and the progress of any initial Inquiry or Investigation undertaken;
  - f. Be responsible for communications with any person or organization outside the University that has a legitimate interest in the Allegation, including any oversight agency or funding entity;

- g. Be responsible for referring any Allegation(s) involving Research that was not conducted at the University to the appropriate external entity;
- h. Refer relevant matters to the appropriate University authorities during Research Misconduct Proceedings when other University policies are implicated, such as those addressing the use of human subjects, the use and care of laboratory animals, the use and care of hazardous substances and Conflicts of Interest;
- i. If the RIO, in consultation with the DO, believes that possible criminal conduct exists, inform, within 24 hours, the relevant oversight agency or funding entity (if required), and other appropriate bodies, including the UMS Office of General Counsel, UMaine Police Department and the Office of Human Resources;

## B. Complainant

The Complainant is responsible for making Allegations in Good Faith, maintaining confidentiality, and cooperating with the Inquiry and Investigation. The Complainant may be interviewed during both an Inquiry and an Investigation, and if interviewed will be given the transcript or recording of the interview(s) for correction. See additional rights and responsibilities contained in section V.F. Confidentiality.

## C. Respondent

1. The Respondent is responsible for maintaining confidentiality and cooperating with the conduct of an Inquiry and Investigation. The Respondent is entitled to:
  - a. A reasonable effort from the RIO to notify the Respondent in writing at the time of or before beginning an Inquiry according to Section VI.D of this Policy, which notice shall include, among other statements, a statement articulating the right to be accompanied by Personal Counsel to advise but not to represent the Respondent in all subsequent Misconduct Proceedings conducted under this Policy (see also Section V.I Representation);
  - b. Receive a copy of the preliminary Inquiry Report and, concurrently, a copy of, or supervised access to the Evidence on which the Inquiry Report is based, and be notified that any comments must be submitted within 10 business days of the date on which the copy was received and that the comments will be considered by the University and addressed in the final Report;
  - c. Be notified of the outcome of the Inquiry, and receive a copy of the Inquiry Report that includes a copy of, or refers to any applicable federal regulation (e.g. 42 CFR Part 93) and the University's policies and procedures on Research Misconduct;

- d. Be notified in writing of the Allegations to be investigated within 30 days after the determination that an Investigation is warranted, but before the Investigation begins, and be notified in writing of any new Allegations, not addressed in the Inquiry or in the initial notice of Investigation, within a reasonable time after the determination to pursue those Allegations;
  - e. Be interviewed during the Investigation, have the opportunity to correct the recording or transcript, and have the corrected recording or transcript included in the record of the Investigation;
  - f. During the Investigation, request that the Investigation Committee interview any witness who has been reasonably identified by the Respondent as having information on relevant aspects of the Investigation, and have the recording or transcript provided to the witness for correction, and have the corrected recording or transcript included in the record of Investigation; and
  - g. Receive a copy of the draft Investigation Report and, concurrently, a copy of, or supervised access to the Evidence on which the Report is based, and be notified that any comments must be submitted within 10 business days of the date on which the copy was received and that the comments will be considered by the University and addressed in the final Report.
2. The Respondent must be given the opportunity to admit that Research Misconduct occurred and that they committed the Research Misconduct. With the advice of the RIO and/or other University officials, the DO may terminate the University's review of an Allegation that has been admitted, if the University's acceptance of the admission and any proposed settlement is approved by the relevant oversight agency or funding entity (e.g. ORI, NSF DoD etc.).

#### D. The Deciding Official

1. The DO is normally the Vice President for Research and Dean of the Graduate School (VPRDGS). As noted in Section V.J, the DO may take Interim Administrative Actions. The DO will receive the Inquiry Report and, after consulting with the RIO, will decide whether an Investigation is warranted under the criteria in this Policy. Any finding that an Investigation is warranted must be made in writing by the DO. If the questioned Research is supported by Public Health Service (PHS) funding, the DO must provide notice of the Investigation to ORI, together with a copy of the Inquiry Report meeting the requirements of 42 CFR § 93.309, within 30 business days of the finding. If it is found that an Investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the Inquiry is retained for at least 7 years after termination of the Inquiry.
2. The DO will receive the Investigation Report and, after consulting with the RIO and/or other University officials, decide the extent to which the

University accepts the findings of the Investigation and, if Research Misconduct is found, decide what, if any, University administrative actions are appropriate.

3. If PHS funds are involved, the DO will ensure that the final Investigation Report, the findings of the DO and a description of any pending or completed administrative actions are provided to ORI, as required by 42 CFR § 93.315.
4. The DO will review and decide upon any appeals submitted by the Respondent.

#### E. Research Integrity Standing Committee

1. The RISC will consist of a pool of 9-10 senior faculty selected from multiple disciplines to serve as subject matter experts for the Inquiry Boards and Investigation Committees. The Faculty Senate will provide nominations for membership and the VPRDGS will appoint members to the RISC. It is recommended that the RISC include an individual with experience specifically related to Research ethics when possible. All RISC members will receive training on this Policy and the applicable federal regulations and will serve staggered 3-year terms. The term of membership for RISC members is renewable at the discretion of the VPRDGS, in consultation with the RIO. The RISC may include emeritus faculty.
2. The RIO may consult with the RISC for advice on policy matters related to Research integrity or in the event of perceived threats to the integrity of these Procedures.
3. In consultation with the University President, the RISC will provide input on the performance of a RIO after 3 years of service.

## V. General Policies & Principles

### A. Responsibility to Report Misconduct; Referral to Other Offices

All University community members must report observed, suspected, or apparent Research Misconduct to the RIO or to any University Official, who will then immediately refer the Allegation to the RIO. If an individual is unsure whether a suspected incident falls within the definition of Research Misconduct, they may meet with or contact the RIO to discuss the suspected Research Misconduct informally, which may include discussing it anonymously and/or hypothetically. If any of the circumstances described by the individual do not meet the definition of Research Misconduct, the RIO will refer the individual or some or all of the Allegation(s) to other offices or officials with responsibility for resolving the issue. If, during a Research Misconduct Proceeding, the Inquiry Committee, Investigation Committee, or DO determines, through the procedures in this Policy, that the circumstances alleged do not meet the definition of Research Misconduct, they may, in their discretion, refer the individual or the Allegation to other offices or officials with responsibility for resolving the issue. Including, in their discretion, summarizing the issue or forwarding relevant Evidence to such offices or officials.

## B. Duty to Cooperate

1. All individuals to whom this Policy applies, including Respondents and Complainants, are obligated to cooperate with the Proceedings under this Policy. Such cooperation includes providing Research Records and other relevant information to the RIO or their designee and sending all correspondence required for the Inquiry or Investigation through the RIO. Under federal regulations (e.g. 42 C.F.R. §93.106(b)), the actual or apparent failure of a Respondent to retain Research Records may, absent extenuating circumstances, be seen as Evidence against the Respondent in evaluating Research Misconduct Allegations. The destruction of, absence of, or Respondent's failure to provide Research Records adequately documenting the questioned Research is Evidence of Research Misconduct when the University establishes by a Preponderance of the Evidence that the Respondent:
  - a. Behaved in a way that constituted a significant departure from accepted practices of the relevant Research community; and
  - b. Intentionally, Knowingly or Recklessly had Research Records and destroyed them; or
  - c. Had the opportunity to maintain Research Records but did not do so; or
  - d. Maintained Research Records and failed to produce them in a timely manner.

## C. Integrity of Procedures

1. The Complainant, the Dean (or responsible administrator), the RIO, the DO, witnesses, and members of Inquiry Panels and Investigation Committees will act in Good Faith.
2. No one will attempt to prejudice or coerce the judgment or decisions of an Inquiry Board member, an Investigation Committee member, the Respondent's Dean (or responsible administrator), or the RIO.
3. No one will attempt to prejudice or coerce the testimony of any witness, the Complainant or the Respondent.
4. No one will engage in or threaten Retaliation.
5. Anyone who becomes aware of any actual or threatened violation of the integrity of these Procedures shall inform the RIO immediately. Anyone who becomes aware of any Allegation or report that a member of an Inquiry Board, an Investigation Committee, the Respondent's Dean (or responsible administrator), or the RIO has not acted in Good Faith in carrying out any of their duties under these Procedures must inform the DO immediately. Any violation of this Policy will be taken seriously and will be grounds for disciplinary action under the appropriate university procedures.

#### D. Research Misconduct Proceedings and Expansion of Scope

1. During a Research Misconduct Proceeding, the University will pursue diligently all significant issues and leads discovered throughout the three phases of the Research Misconduct Proceeding: the Preliminary Assessment, the Inquiry and the Investigation, including any Evidence of additional Allegations of possible Research Misconduct.
  - a. During any phase of a Research Misconduct Proceeding, additional Allegations may arise that are related to an ongoing Inquiry or Investigation and that justify broadening the scope beyond the initial Allegation(s).
  - b. The revision of an Allegation already under review due to identification of new information is not considered a new Allegation.
  - c. If any new Allegations arise during the Inquiry or Investigation, the RIO will notify the Respondent, in writing, of the decision to review the new Allegation(s) and will provide a description of the Allegation(s). If a new Respondent is named, the RIO will inform the new Respondent in writing of the decision to review the Allegation(s) with a description of the Allegation(s).
  - d. The Respondent(s) will be furnished with, or have access to, copies of all documentary Evidence regarding the new Allegation(s).

#### E. Precedence of Proceedings

##### 1. Government Proceedings

Certain federal agencies have the option, at any stage in these Procedures, to initiate an independent Investigation of an Allegation involving Research or Scholarly Activity. In the event a federal agency initiates such an Investigation, the RIO will consult the federal agency regarding its Investigation and will advise the DO whether the University should suspend its review of the Allegation during the federal funding agency's Investigation, which the DO will have authority to do.

##### 2. 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 DO will have authority to stay any Misconduct Proceeding until the criminal investigation or proceeding is complete.

##### 3. Civil Litigation

The existence of civil litigation involving the University may necessitate staying a Misconduct Proceeding. The DO will make such decisions on a case-by-case basis and promptly report them to the RIO.

4. Internal Proceedings

Subject to the DO's authority to stay Misconduct Proceedings (see below) and subject to the University's right to take interim action under any University policy or contract, review of an Allegation under this Policy will precede all other internal University proceedings against a Respondent that relate to or arise out of the same alleged misconduct, including, without being limited to, disciplinary, anti-discrimination and grievance proceedings.

5. DO Stay of Proceedings

The DO has the authority to stay any Misconduct Proceeding if, the DO or RIO, in consultation with the UMS Office of General Counsel, 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 or immediate need to protect human or animal subjects).

F. Confidentiality

1. Except as otherwise permitted or required by these Procedures, or as required by law, to the extent possible and consistent with a fair and thorough review of an Allegation that respects the confidentiality of those involved, especially the Respondent, members of, Inquiry Boards, the Investigation Committee, the Respondent's Dean (or responsible administrator), the RIO, and University administrators involved in the review of an Allegation under these Procedures will make diligent efforts to preserve the confidentiality of the Allegation and resulting Misconduct Proceedings by limiting disclosure to those who need to know about them to carry out their responsibilities under this Policy; and
2. If an Allegation results in an Investigation, the RIO may, after consulting with the UMS Office of General Counsel, confidentially advise any person or entity that has immediate plans to publish or disseminate the results of the Research or Creative Activity to which the Allegation relates of the pending Investigation.
3. Complainants are afforded confidentiality from disclosure of their identity beyond the specific individuals who need to know in order to carry out a Misconduct Proceeding. Complainants who feel vulnerable due to concerns of Retaliation may request anonymity. See Retaliation, below.
4. Anyone who becomes aware of a breach of confidentiality shall inform the RIO immediately. The RIO will investigate the breach of confidentiality and

refer the matter to the appropriate administrator for review and further action, if any, as the administrator may deem appropriate.

#### G. Conflicts of Interest

1. Conflicts of Interest in Research Misconduct Proceedings exist when the financial, personal or professional relationships of an individual involved in the Proceedings may affect the Proceedings or the resolution of the Allegations. Perceived or actual conflicts of interest are treated identically under this Policy.
2. Possible Conflicts of Interest may include, but are not limited to, co-authorship of work with the Respondent or Complainant, or professional or personal relationship with the Respondent or Complainant beyond that of mere colleagues (e.g., current or former student or mentor relationship, direct supervisory or subordinate job relationship, or marital/partner relationship).
3. The subordinate relationship of a Respondent or Complainant to their Dean or Chair alone does not constitute a perceived or actual Conflict of Interest under this Policy.
4. Any individual involved in Research Misconduct Proceedings has an obligation to disclose to the RIO if a Conflict of Interest arises or becomes known at any point in the Proceedings; either their own Conflict of Interest or someone else's. Any individual involved in Research Misconduct Proceedings who has a Conflict of Interest shall recuse themselves.
5. The RIO has the responsibility and authority to evaluate, rule on and provide a replacement for all perceived or actual Conflicts of Interest of the Inquiry and Investigation Committee members. The DO has the responsibility and authority to evaluate, rule on and provide a replacement participant for all perceived or actual Conflicts of Interest of the RIO, Dean (or responsible administrator), or any other individual involved in a Research Misconduct Proceeding, excluding the Inquiry and Investigation Committee members. The University President has the responsibility and authority to evaluate, rule on and provide a replacement for all perceived or actual Conflicts of Interest of the DO. During the handling of the Research Misconduct Proceedings, if Conflicts of Interest arise for any individual involved in the Proceedings, a replacement will be designated who will be fully informed regarding earlier procedures and Evidence secured. It is not required that the process commence anew.
6. Both the Respondent and the Complainant may challenge the identification of an Inquiry Board member, an Investigation Committee member, the RIO, the DO, or any other individual involved in a Research Misconduct Proceeding on the basis of asserted Conflict, as more fully described below in this Policy.

#### H. Retaliation

1. The University will not tolerate Retaliation in any form against any individual who participates in a Research Misconduct Proceeding. Retaliation is a



serious violation. Retaliation by University community members, as determined by the DO with advice from the UMS Office of General Counsel, will be referred for appropriate University disciplinary procedures.

2. University officials will take all reasonable and practical steps to rectify any injury done to the reputations of Complainants, witnesses or committee members upon a finding of Retaliation by any party.

#### I. Representation

Respondents, Complainants and witnesses may be accompanied by Personal Counsel. Personal Counsel must not be a University representative with any role, or involvement in, the University's Research Misconduct processes. Personal Counsel may advise their client but may not address the panel directly or otherwise participate in the proceedings. Personal Counsel should communicate any concerns about the Proceedings directly to UMS Office of General Counsel.

#### J. Interim Administrative Actions

During the Misconduct Proceedings under this Policy or any subsequent activities, the DO may take administrative actions that are, in their judgment, appropriate to protect Research funds, materials, equipment or records, or the legitimate interests of Research subjects, patients, clients or Research animals. Such administrative actions will not be deemed disciplinary in nature. Further, the institution will notify applicable federal funding entities if the RIO, in consultation with the DO, believes that any of the following conditions exist:

1. The health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
2. Federal resources or interests, including funds or equipment, are threatened;
3. Research activities should be suspended;
4. There is indication of possible violations of civil or criminal law;
5. Federal action is required to protect the interests of those involved in the Research Misconduct Proceeding;
6. The Research Misconduct Proceeding may be made public prematurely, therefore the oversight agency or funding entity may want to take appropriate steps to safeguard Evidence and protect the rights of those involved; or
7. The Research community or public should be informed.

#### K. Appeals, Challenges and Other Objections and Complaints

1. Appeals to determinations made at the conclusion of the Preliminary Assessment, Inquiry and Investigation are addressed in their respective sections of this Policy.
2. Other challenges, objections and complaints are addressed below:
  - a. Challenges
    - i. Both the Respondent and the Complainant may challenge the appointment of an Inquiry Board member or an Investigation Committee member, but only on the grounds of a lack of the

requisite expertise or possible Conflicts of Interest of the member. The challenge must be made in writing, with accompanying rationale, within 5 business days of receiving notice. The challenge will be submitted to the RIO. The RIO, after consultation with the DO as necessary, must respond to the challenge in writing within 5 business days, either accepting it and taking appropriate action, or rejecting it for stated cause.

- ii. Both the Respondent and the Complainant may challenge the involvement of the RIO, the DO, the Dean (or responsible administrator), or any other individual involved in a Research Misconduct Proceeding on the grounds of Conflict of Interest. The challenge must be made in writing, with accompanying rationale, within 5 business days of receiving notice. The challenge will be submitted to the RIO, the DO or President, as determined by Section V.G.5 of this Policy. The RIO, DO or President must respond to the challenge in writing within 5 business days, either accepting it and taking appropriate action, or rejecting it for stated cause.

b. Other Objections and Complaints

- i. If a Complainant or Respondent objects to any other decision, procedural or substantive, made during the current or any previous Misconduct Proceeding in the review of an Allegation, they may raise that objection:
  1. With the RIO during the Preliminary Assessment;
  2. With the Inquiry Board during the Inquiry; or
  3. With the Investigation Committee during the Investigation.
3. The process for appealing or challenging decisions made under this Policy are contained solely within this Policy. Neither procedural or substantive decisions or findings made under these Procedures by the RIO, the DO, an Inquiry Board, an Investigation Committee or the President may be challenged or overturned under the faculty or staff grievance procedures, the Anti-Discrimination Policy, or any other University policy, contract or procedure.

L. Timeline

At every step of the process, all parties will work as expeditiously as possible. The deadlines noted in this Policy are intended to be maximum periods for each stage and are based on the timelines in the applicable federal regulations.

## **VI. Allegation, Assessment & Inquiry Procedures**

### **A. Making an Allegation**

Allegations of Research Misconduct may be filed with the University by anyone, whether associated with the University or not. Such Allegations may be filed orally or in writing, and may be filed anonymously. Allegations must be filed with the RIO or referred immediately to the RIO by any University official who receives an Allegation. All concerns brought to the RIO that immediately clearly do not meet the definition of Research Misconduct under this Policy--for example, reports of non-compliance which on their face do not relate to Fabrication, Falsification or Plagiarism in any way -- will be referred by the RIO to the appropriate University office or to the appropriate external entity without conducting a Preliminary Assessment.

#### B. Preliminary Assessment

1. When an Allegation is filed with or referred to the RIO, regardless of the source of the Allegation, the RIO will immediately assess the Allegation to determine whether it is sufficiently credible and specific so that potential Evidence of Research Misconduct may be identified, and whether the Allegation falls within the definition of Research Misconduct. The RIO will determine, to the extent possible, if each Allegation is within the six-year time limit, or an exception to the time limit, as described by the relevant oversight agency or funding entity, as applicable (e.g. 42 C.F.R. §93.105). An Inquiry must be conducted if these criteria are met. Any Allegation that is outside the six-year time limit and does not qualify as an exception will be dismissed from review under this Policy.
2. The RIO will ensure the Dean (or responsible administrator) to whom a Respondent reports is informed of the Allegation, along with the DO, President and UMS Office of General Counsel.
3. The Preliminary Assessment will be conducted by the RIO, alongside any other appropriate individual whom the DO may designate at their discretion. The Preliminary Assessment will include a review of the information or circumstances giving rise to the alleged Research Misconduct.
4. If the Allegation does not name a specific Respondent, the RIO will determine, to the extent possible, the roles and responsibilities of the individuals involved in the questioned Research in order to name one or more Respondents.
5. The RIO may, but is not required to, interview the potential Respondent(s), Complainant(s), or any other witnesses and consult confidentially with the Chair of the department(s) involved and others within, or external to, the University with relevant experience or expertise, as long as no unresolved Conflicts of Interest exist.
6. Every effort will be made to complete the Preliminary Assessment within 30 business days, or as soon as practicable, depending on the complexity of the Allegation(s).

7. Upon the completion of the Preliminary Assessment, the RIO will complete a Preliminary Assessment Report explaining the basis for determining that an Inquiry is or is not warranted.
  - a. If the RIO determines that an Inquiry is warranted, the RIO will provide the Assessment Report to the DO with notice to the Complainant, Dean (or responsible administrator) to whom a Respondent reports, Provost & President that an Inquiry is warranted. The RIO will provide the Respondent with a copy of the Preliminary Assessment Report at the same time as the notice described in Section VI.D of this Policy
  - b. If the RIO determines that an Inquiry into the Allegation is not warranted, the RIO shall notify the Complainant, Dean (or responsible administrator) to whom a Respondent reports, DO and President.
8. Appeals
  - a. The Complainant may appeal a determination by the RIO at the end of the Preliminary Assessment that no Inquiry into the Allegation is warranted, but only on the grounds that:
    - i. The Respondent's alleged conduct could constitute Misconduct; **and**
    - ii. There is sufficiently credible Evidence to support further review of the Allegation.
  - b. The appeal must be in writing, must set forth the basis for the request, and must be filed with the DO within 5 business days after the Complainant's receipt of the RIO's determination at the conclusion of the Preliminary Assessment. After review, the DO may reject the Complainant's appeal; or, the DO may accept the Complainant's appeal for good cause stated and require the RIO to initiate an Inquiry. In either case, the DO's decision on the appeal is final.

#### C. Sequestration of Research Records

The RIO must take immediate action to sequester all available data or other materials relevant to the Allegation, on or before the date on which the Respondent(s) is notified of the Allegations. The RIO has authority to promptly locate and secure the originals of all Research Records and other relevant materials if it is believed that such records may become relevant in the course of an Inquiry or an Investigation of alleged Research Misconduct. Should new Allegations or identification of new Respondents at any time during the proceedings necessitate sequestration of additional materials, the RIO will take appropriate steps to sequester additional Research Records, as soon as possible. The RIO must create an inventory of the records and sequester them securely. The inventory and copies of, or supervised access, to the Research Records and other materials will be provided to the Inquiry Board, Investigation Committee, the Respondent(s), and any other person who has a legitimate reason, related to the

Research Misconduct Proceedings, to require access. If Research Records exist outside of the University, the RIO has authority, in consultation with the DO, to contact the appropriate officials to locate and secure all Research Records relevant to the Allegation(s).

#### D. Notice

Before beginning an Inquiry, the RIO must make a reasonable effort to notify the Respondent in writing of the Allegation. The notice shall include a written statement of the Allegation, as completely as the RIO can formulate it with the information in hand, a hard copy or electronic access to this Policy, a statement that the Respondent is considered innocent unless and until a non-appealable finding of Research Misconduct is reached against the Respondent, the Respondent's right to be accompanied by Personal Counsel to advise but not to represent the Respondent in all subsequent Misconduct Proceedings conducted under this Policy, and an invitation to contact the RIO if the Respondent has any questions about the Procedures or the Respondent's right and responsibilities under them. If possible, the RIO should serve notice in person to answer any questions from the Respondent and to begin the sequestration of Research Records that the RIO has not already secured. If the Inquiry subsequently identifies additional Respondents, the RIO must notify them.

#### E. Appointment of the Inquiry Board

If at the end of the Preliminary Assessment the final determination is that an Inquiry is warranted, the Respondent's Dean (or responsible administrator) and the RIO will promptly appoint an Inquiry Board of at least 3 members, chosen for their pertinent expertise. While Inquiry Boards will usually be composed of University faculty and consulting experts from the RISC, they may also include persons other than University faculty when the Dean (or responsible administrator) and the RIO determine that such persons have experience or expertise useful to the Inquiry (subject matter consultants). When the Respondent is a student, the Inquiry Board will include at least one student. The Inquiry Board will select one of its members to act as its chairperson.

#### F. Notice of Inquiry Board (IB) Appointments

1. The RIO will inform the Respondent(s) and Complainant(s) in writing of the names of those appointed as IB members and as subject matter consultants.
2. The Respondent(s) and Complainant(s) may, within 5 business days of receiving the names of IB members, file a written objection with the RIO. Such objection may only be made on the grounds of a lack of the requisite expertise or possible Conflicts of Interest of IB members. The RIO will rule on the objection and, if it has merit, will reconstitute the IB as appropriate, and the Respondent and Complainant(s) will be informed.

#### G. Charge to the Inquiry Board and First Meeting

1. The RIO will prepare the Charge to the Inquiry Committee which will:

- a. Describe the Allegations and any related issues identified during the Preliminary Assessment;
  - b. State that the purpose of the Inquiry is to conduct an initial review of the Evidence, including the testimony of the Respondent, Complainant and key witnesses, to determine whether an Investigation is warranted, but not to determine whether Research Misconduct occurred or who was responsible for it;
  - c. State that an Investigation is warranted if the committee determines: (1) There is a reasonable basis for concluding that the Allegation falls within the definition of Research Misconduct; and, (2) The Allegation may have substance, based on the Board's review during the Inquiry;
  - d. Inform the Inquiry Board that it is responsible for preparing or directing the preparation of a written Report of the Inquiry that meets the requirements of this Policy and the relevant oversight agency or funding entity (as applicable); and
  - e. Set the date for completion of the Inquiry based on the prescribed timeline in this Policy.
2. The RIO will provide the Respondent with a copy of the Charge to the Inquiry Board.
  3. First Inquiry Board Meeting
    - a. At the Inquiry Board's first meeting, the RIO and an attorney from the UMS Office of General Counsel will:
      - i. Review the charge with the Inquiry Board and discuss the Allegations, any related issues, the appropriate procedures for conducting the Inquiry, other relevant University regulations, and legal and procedural issues that the Inquiry Board is likely to encounter in conducting the Inquiry.
      - ii. Provide the Assessment Report and copies of, or supervised access to, the Evidence and testimony that support it, as well as any Evidence gathered subsequently.
      - iii. Advise the Inquiry Board that the RIO will be present or available throughout the Inquiry process to advise the Inquiry Board as needed.

#### H. Inquiry

1. The Inquiry Board will formally interview the Complainant (if known), Respondent(s) and any other individual having relevant information with the objective of determining whether each Allegation has substance.
2. Respondents do not have the right to be present at interviews of witnesses or to question such witnesses at this, or any stage, of the Research Misconduct Proceeding.

3. As more fully described in Section V.I. Representation, a Respondent may be accompanied by Personal Counsel when interviewed, but the role of Personal Counsel or advisor is limited to advising the Respondent(s). Counsel and advisors will not speak on behalf of a Respondent, nor address the Inquiry Panel directly.
4. The Respondent(s) may, at any time, submit any relevant Evidence for consideration by the RIO, the Inquiry Board and any expert. Concurrently with receipt of the preliminary Inquiry Report, the Respondent(s) must be furnished with copies of all, or have supervised access to, relevant Evidence.

#### I. Timeline for Completion

The Inquiry should be completed within 60 business days of the IB Charge and First meeting. If an Inquiry cannot be completed within the 60-business day period, the RIO will submit a written request for an extension to the DO and to the relevant oversight agency or funding entity, if required to do so by law or contract, explaining the reasons for delay and the progress of the Inquiry. A copy of the request and any determination by the DO and the relevant oversight agency or funding entity, as applicable, will be provided to the Respondent.

## VII. Inquiry Report

### A. Preliminary Inquiry Report

When the Inquiry Board has reached a conclusion as to whether or not each Allegation has sufficient substance to warrant an Investigation, the Board will prepare a preliminary Inquiry Report.

### B. Elements of the Inquiry Report

1. The preliminary Inquiry Report must set forth:
  - a. The names and positions of the Respondent(s) and Complainant(s); or listed as anonymous;
  - b. A description of the Allegation(s) and a description of any known federal Research support;
  - c. The names, titles and positions of any non-voting expert or subject matter consultants used by the Inquiry Board;
  - d. Interviews (transcripts or excerpts from interviews) that are relevant to each specific Allegation;
  - e. The basis and documentary Evidence for the final determination that each Allegation has, or does not have, sufficient substance to warrant an Investigation;
  - f. The reasons for exceeding the 60 business days to complete the Inquiry, if necessary;
  - g. If the alleged Misconduct involves a significant departure from commonly accepted practices of the relevant research community,

Evidence of such practices and an analysis of the Allegation in light of such practices; and

- h. If the Inquiry Board determines that an Investigation is not warranted, 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.

#### C. Notification to the Respondent and Opportunity to Comment

The RIO shall notify the Respondent whether the Inquiry found an Investigation to be warranted and include a copy of the preliminary Inquiry Report along with a copy of this Policy. The RIO may provide the Complainant portions of the preliminary Inquiry Report relevant to the review and evaluation of the Complainant's Allegation. Within 10 business days of receiving the preliminary Inquiry Report, the Respondent(s) and Complainant(s) may file a written response for consideration by the Inquiry Board. The written response will be reviewed, and a final decision made, normally within 10 business days of receiving the response. The preliminary Inquiry Report will be revised to include the final decision based on a review of the Respondent's and Complainant's responses, if any.

#### D. Institutional Decision and Notification

1. The final Inquiry Report and the written response from the Respondent(s) and Complainant(s) will be forwarded by the RIO to the Respondent(s) and the DO. Sections of the final Inquiry Report relevant to the Allegations raised by the Complainant, or a written notice of the Inquiry outcome, may be provided to the Complainant(s).
2. Appeals
  - a. The decision of the Inquiry Board may be appealed. Any appeal must be based on new information not already considered during the Inquiry, or on Evidence that a substantial procedural error occurred during the Inquiry.
    - i. The Respondent(s) may appeal to the DO within 10 business days of receiving the final Inquiry Report only if the decision is that any Allegation has sufficient substance to warrant an Investigation.
    - ii. The Complainant(s) may appeal to the DO within 10 business days of receiving the final Inquiry Report only if the decision is that the totality of the Allegation(s) has/have insufficient substance to warrant an Investigation.
3. Decision by the Deciding Official



- a. Within 5 business days after the appeal period in section VII.D.2 has concluded, the DO will review and rule on the decision of the Inquiry Board, based on the final Inquiry Report and appeal(s), if any.
- b. If the DO affirms the decision of the Inquiry Board that the Allegation(s) has sufficient substance to warrant an Investigation, and denies any appeal from the Respondent(s), the RIO will refer the Allegation, the final Inquiry Report, and all documentary Evidence to the Investigation Committee. The RIO will provide a written notice of the final determination to the Respondent(s) and Complainant(s).
- c. If the DO does not agree with the decision of the Inquiry Board, the DO may refer the matter back to the Inquiry Board for reconsideration. Such reconsideration will normally be completed within 14 business days of the DO's decision.
- d. Following reconsideration, if the determination by the Inquiry Board or from the DO is that any Allegation has substance to warrant further Investigation, an Investigation will be initiated. The RIO will provide a written notice of the final determination following reconsideration to the Respondent(s) and Complainant(s).
- e. If following reconsideration, the Inquiry Board determines that an Investigation is not warranted, the DO with advice from the UMS Office of General Counsel, may, within 14 business days of receiving the final Inquiry Report, issue a decision to the RIO, the Respondent's Dean (or responsible administrator), the Respondent and the Complainant overruling the Inquiry Board's decision for stated cause and instructing the RIO to initiate an Investigation immediately.
- f. If the entire Allegation is dismissed but recommendations for corrective actions for other concerns were identified during the Inquiry, such action will be referred to the appropriate University authority.
- g. If the final decision from the Inquiry is that an Investigation is warranted, the RIO will inform any cognizant oversight agency or funding entity of the Allegations, as required by contract or law, and will keep the oversight agency or funding entity informed as required.

## **VIII. Investigation**

### **A. Initiation & Appointment of the Investigation Committee**

Within 30 business days of the determination by the Inquiry Board or the DO that an Investigation is warranted, the RIO will provide notice to the Respondent regarding initiation of the Investigation. The notice shall include the specific Allegations to be investigated and explain the Respondent's rights during the Investigation. The RIO shall offer to answer any questions the Respondent(s) may have. The RIO will also notify the Complainant of the initiation of the Investigation. After notice to the Respondent, the RIO and the Respondent's Dean

(or responsible administrator) will appoint an Investigation Committee of not less than three members, chosen for their pertinent expertise. Investigation Committees will usually be composed of an odd number of University faculty for voting purposes, chosen from RISC members who did not serve on the Inquiry Board. Committee members may also include faculty who are not members of the RISC or persons other than University faculty when the RIO and Respondent's Dean (or responsible administrator) determine that such persons have experience or expertise useful to the Investigation (subject matter consultants). When the Respondent is a student, the Investigation Committee will include at least one student. The Investigation Committee will select one of its members to act as its chairperson.

## B. Notifications

### 1. Notification – Internal

In addition to the Respondent(s) and Complainant(s), the RIO will notify the Provost, the President and the UMS Office of General Counsel of the initiation of the Investigation.

### 2. Notification - Funding Source

When the alleged Misconduct involves Research supported by an external (non-University) funder, the RIO will also notify the source of the funding of the Investigation before the start of the Investigation. Such notification will 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.

## C. Notice of Investigation Committee Appointments

1. The RIO will inform the Respondent(s) and Complainant(s) in writing of the names of those appointed as Investigation Committee members and as subject matter consultants.
2. The Respondent(s) and Complainant(s) may, within 5 business days of receiving the names of Investigation Committee members, file a written objection with the RIO. Such objection may only be made on the grounds of a lack of the requisite expertise or possible Conflicts of Interest of Investigation Committee members. The RIO will rule on the objection and, if it has merit, will reconstitute the Investigation Committee as appropriate, and the Respondent and Complainant(s) will be informed.

## D. Charge to the Committee

The RIO will draft a Charge to the Investigation Committee based on the Inquiry Report and the decision of the DO. At the beginning of the Investigation, the RIO will submit to the Investigation Committee and the Respondent a copy of that Charge, the Preliminary Assessment Report, the final Inquiry Report and, if one was issued, the overruling decision of the DO.

## E. Briefing

Before the Investigation begins, an attorney from the UMS Office of General Counsel and the RIO will 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.

#### F. Investigations Process

1. The Investigation Committee will examine all the documentation and conduct formal interviews, when possible, of the Respondent(s), the Complainant(s), and others who may have relevant information concerning the Allegation. At its discretion, the Investigation Committee may also inspect laboratories or other research sites and examine specimens, materials, procedures and methods.
2. The Respondent will be provided copies of, or supervised access to, all Evidence made available to the Investigation Committee.
3. Investigation interviews will be recorded and transcribed. A copy of transcribed interviews will be provided to those interviewed to ensure accuracy and will be included in the Investigation file.
4. The Investigation Committee will investigate all Allegations of Research Misconduct before it. If there is more than one Respondent involved in an Allegation, the Investigation Committee will make separate determinations as to whether Research Misconduct occurred for each Respondent and separate recommendations of corrective actions or sanctions for each Respondent.
5. The Investigation Committee will determine by majority vote of the Investigation Committee members (excluding non-voting subject matter experts or consultants) whether each Allegation constitutes Research Misconduct at the Preponderance of the Evidence standard. A tie vote will indicate that the Allegation fails to meet the Preponderance of the Evidence standard for a finding of Research Misconduct.
6. After the determination that Research Misconduct occurred or did not occur, the Investigation Committee will make a recommendation for the appropriate corrective actions or sanctions, including any correction of the Research Record.

#### G. Scope of the Investigation

1. During the Investigation, additional new Allegations may arise that justify broadening the scope of the Investigation beyond the initial Allegation.
2. The RIO will assess whether a new Allegation meets the definition of Research Misconduct and if it is sufficiently specific and credible so that potential Evidence of Research Misconduct may be identified.
3. If the RIO determines that a new Allegation relates to an ongoing Investigation, the RIO will notify the Respondent(s), and the sitting Investigation Committee will determine by majority vote whether each new

Allegation constitutes Research Misconduct at the Preponderance of the Evidence standard.

4. If the RIO determines that a new Allegation relates to an ongoing Investigation, but the Allegation arises after the Investigation Committee has determined that Research Misconduct has occurred, or arises after an Investigation is concluded with Research Misconduct findings, the RIO in consultation with the Investigation Committee chair and the DO, will review each new Allegation for substance and determine the appropriate actions.
5. If a new Allegation related to an ongoing Investigation identifies one or more new Respondents, the RIO will notify each new Respondent about the Allegation(s), sequester additional data if necessary, and determine whether the Allegation(s) will be reviewed in the ongoing Investigation.

#### H. Time Requirements

1. The Investigation will commence within 30 business days after the completion of an Inquiry that determines an Investigation is warranted. The Investigation will conclude within 120 business days of its initiation, unless circumstances warrant a longer period as determined by the RIO, with the approval from the relevant oversight agency or funding entity as required by federal law. A copy of the request and any determination by the DO and the relevant oversight agency or funding entity, as applicable, will be provided to the Respondent.
2. If an Investigation cannot be completed within the 120-business day period, the RIO will submit a written request for an extension to the DO and to the relevant oversight agency or funding entity, if required to do so by law or contract, explaining the reasons for delay and the progress of the Investigation.

### **IX. Investigation Report**

#### A. Preliminary Investigation Report

1. When the Investigation Committee has reached a conclusion as to whether or not each Allegation constitutes Research Misconduct, it will prepare a preliminary Investigation Report.

#### B. Elements of the Investigation Report:

1. A description of each Allegation of Research Misconduct;
2. A description of any federal or other funding support;
3. The name of the Respondent(s) and Complainant(s), or listed as anonymous;
4. The names, titles and positions of the Investigation Committee members and any non-voting subject matter consultants;
5. A summary of the relevant documentary Evidence and interview transcripts;
6. For each separate Allegation, an analysis of any explanation offered by the Respondent and the Evidence in support thereof;

7. The Investigation Committee's analysis of each separate Allegation pursuant to the standards set forth below; and
8. The Report must include a determination whether any part of the Research Record needs correction or retraction as a result of the finding of Research Misconduct, and, if so, an explanation of that correction or retraction.
9. Research Misconduct Finding

If the Investigation Committee finds that Research Misconduct occurred and that the Respondent was responsible for it, the Investigation Report must include: the Investigation Committee's determination that: (1) There was a significant departure from accepted practices of the relevant Research community; and (2) The Misconduct was committed Intentionally, Knowingly or Recklessly; and the Allegation was proven by a Preponderance of the Evidence, and
10. If the Investigation Committee does not find that Research Misconduct occurred, it will explain the reasons for its decision in the Investigation Report, with specific reference to the pertinent criteria set forth above.

#### C. Notice to Respondent and Opportunity to Comment

1. The RIO will provide the preliminary Investigation Report with documentary Evidence to the Respondent(s) for comment and to the DO. The RIO may provide the Complainant portions of the preliminary Investigation Report relevant to the review and evaluation of the Complainant's Allegation. The Respondent(s) and Complainant(s) will have 10 business days from receipt of the preliminary Investigation Report to provide written comments to the Investigation Committee. The Investigation Committee will review the comments and, if necessary, revise the preliminary Investigation Report.
2. The Investigation Committee chair will forward a final Investigation Report to the DO and the Respondent(s). Any written comments from the Respondent(s) and Complainant(s) will be appended to the Report.

#### D. Appeals and Final Decision

##### 1. Appeals

Within 10 business days, the Respondent(s) may appeal the Investigation Committee's decision that Research Misconduct occurred, to the DO. The appeal must be in writing and based on new information not already considered during the Investigation, Evidence that a substantial procedural error occurred during the Investigation, or Evidence that a substantial violation of this Policy impacted the finding. The DO will respond to the appeal in accordance with section IX.D.2, below.

##### 2. Decision by Deciding Official

- a. Within 10 business days after the appeal period in section IX.D.1 has concluded, the DO will make a determination regarding Research

Misconduct, based on the final Investigation Report and appeal, if any, as follows:

- i. If the DO agrees with the Investigation Committee's determination:
  1. The DO will provide written notice of their decision regarding Research Misconduct to the RIO and to the Respondent(s).
  2. The RIO will notify the Complainant(s), the Dean (or responsible administrator) to whom a Respondent reports, the Provost and President of the outcome of the Investigation.
  3. The finding of the Investigation Committee and the DO regarding Research Misconduct are final. The RIO will forward the DO's decision, the final Investigation Report, and the documentary Evidence to the appropriate administrator(s) for corrective actions or sanctions.
- ii. If the DO finds that the Investigation Committee's determination, as set forth in the final Investigation Report, is substantively incorrect because the Evidence does not support the Investigation Committee's determination, or otherwise grants the Respondent's appeal, if any:
  1. The DO will so inform the RIO and will identify and explain the reason the DO believes the Investigation Committee's determination to be in error. The Investigation Committee will reconsider its decision in light of the opinion by the DO.
  2. If the Investigation Committee changes its determination in light of the opinion by the DO, it will submit a new draft of the Investigation Report to the Respondent for further comment. The DO will then follow the steps outlined in section IX.D.2.a.i, above.
  3. If the Investigation Committee does not change its determination in light of the opinion by the DO, the Investigation Committee will respond to the opinion by the DO in completing the Investigation Report and will make any changes in the Investigation Report that it deems appropriate in light of the opinion by the DO. The opinion by the DO will be included as an appendix to the final Investigation Report. The DO will either agree with the Investigation Committee's determination and follow the steps outlined in section IX.D.2.a.i,

above, or may Overrule the Investigation Committee's determination, as described below.

iii. Overrule; New Investigation

If the DO believes the Investigation Committee's determination is incorrect, the DO may, with advice from the UMS Office of General Counsel, within 10 business 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.

iv. Second Investigation Committee

If a second Investigation Committee is impaneled, it will conduct a new Investigation under these Procedures. Like the first Investigation Committee, the second Committee should be composed on an odd number of University Faculty for voting purposes, chosen from RISC members, or others, who did not serve on the Inquiry Board or first Investigation Committee. The DO will review and respond to the second Investigation Committee's determination under section IX.D.2.i or IX.D.2.ii. If, under section IX.D.2.ii.3 the DO and the Investigation Committee do not agree on the outcome, the Investigation Committee's decision will be final.

E. Notice to relevant oversight agency or funding entity of Institutional Findings and Actions

Unless an extension has been granted, the RIO must, within the 120-day period for completing the Investigation, submit the following to the relevant oversight agency or funding entity: (1) A copy of the final Investigation Report with all attachments; (2) A statement of whether the University accepts the findings of the Investigation Report; (3) A statement of whether the University found Research Misconduct and, if so, who committed the Research Misconduct; and (4) A description of any pending or completed administrative actions against the Respondent.

F. Maintaining Records

The RIO must maintain and provide Research Misconduct Proceeding Records to the relevant oversight agency upon request. In all closed Research Misconduct Proceedings, the official University record will be kept in the files of the Office of Research Compliance (ORC). The official University record will be kept for a minimum of 7 years or as required under the applicable University data and record retention policies.

**X. Completion of Cases; Reporting Premature Closures to Federal Agency, as Required**

Generally, all Inquiries and Investigations will be carried through to completion and all significant issues will be pursued diligently. The RIO will notify any applicable federal agency, as required, in advance if there are plans to close a case at the Inquiry, Investigation, or appeal stage on the basis that Respondent has admitted guilt, a settlement with the Respondent has been reached, or for any other reason, except: (1) closing of a case at the Inquiry stage on the basis that an Investigation is not warranted; or (2) a finding of no Research Misconduct at the Investigation stage, which typically must be reported to any applicable federal agency.

## **XI. Institutional Administrative Actions**

If the DO determines that Research Misconduct is substantiated by the findings, the DO in consultation with the Respondent's Dean (or responsible administrator), Provost and President, as appropriate, will decide on the appropriate administrative actions to be taken, some of which may be delegated to the RIO. The administrative actions may include but are not limited to:

1. Retraction or correction of all pending or published abstracts and papers emanating from the Research where Research Misconduct was found;
2. Restitution of funds to the grantor agency as appropriate; and
3. Other action appropriate to the circumstances.

## **XII. Reopened Allegations, New Evidence, Restoration of Reputation and Bad Faith Allegations**

### **A. Reopened Allegation**

Any Allegation that has been closed with a determination that Research Misconduct did not occur may be reopened only if, in the opinion of the RIO in consultation with the DO, new and potentially significant information of Research Misconduct, not previously considered, has been presented.

### **B. New Evidence**

If, following a final non-appealable decision that Misconduct has occurred, the RIO learns of previously unavailable material Evidence relevant to the determination of Misconduct, the RIO will submit the new Evidence to the Investigation Committee that conducted the Investigation of the Misconduct. If any members of the Investigation Committee are not available, new members will be appointed following the processes described in this Policy. If the new Evidence is not submitted by the Respondent, the Respondent(s) shall be informed of the new Evidence and this review. The Investigation Committee will promptly consider the new Evidence and notify the President of its impact on its finding of Misconduct and on its Investigative Report. The President may also consult the DO about the impact of the new Evidence. Based on the new Evidence and the information from the Investigation Committee and the DO, the President 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 President will issue that decision with stated rationale within 30 business 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.

C. Restoration of Reputation

In Misconduct Proceedings that result in a finding that the Respondent did not commit Research Misconduct, the University will take all reasonable and practical efforts, if requested and as appropriate, to rectify any injury done to the reputation of Respondent, including providing a letter of the results of the Investigation. Further, the University will take all reasonable and practical efforts to protect or restore the position and reputation of any Complainant, witness, or committee member and to counter potential or actual Retaliation against these individuals.

D. Allegations Not Made in Good Faith

If the RIO at the Assessment stage, or if a majority of the members of the Inquiry Board or the Investigation Committee conclude that the Complainant acted not in Good Faith in making the Allegation, or that the Complainant or any witness(es) acted not in Good Faith during any Misconduct Proceeding, the matter will be referred to the DO for administrative review and appropriate action.

**XIII. Review of Policy**

This Policy should be reviewed (1) after a Research Misconduct Proceeding, in light of the experience gained; and (2) every 2 years. The RIO will coordinate with the DO, the RISC, the UMaine Office of Research Compliance, the UMS Office of General Counsel and other appropriate stakeholders for review of the Policy and recommended changes. The President is responsible for final approval.