

WASHINGTON STATE UNIVERSITY
EXECUTIVE POLICY MANUAL

Executive Policy #33
Approved January 11, 2012

Washington State University
Responding to Allegations of Research Misconduct

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I. INTRODUCTION

A. General Policy

The research enterprise is built on a foundation of truth, which has allowed society to place a high level of confidence in the conduct of research and the outcomes reported from that research. The trust between science and society will endure only if the scientific community devotes itself to ethical conduct of research. Thus, all members of the Washington State University (University) community share responsibility for promoting and maintaining the principles of academic integrity. The University expects researchers to adhere to the highest ethical standards in the conduct of research activities and is committed to vigorously enforcing those standards. Moreover, good faith complainants are protected from retaliation by the provisions of state law and University policy.

B. Scope

This policy and the associated procedures apply to all institutional members, as defined in this policy, who are engaged in scholarship and research supported by a nonfederal sponsor, unsupported research, and research that is supported by or for which support is requested from a federal agency sponsor such as the U.S. Public Health Service (PHS), the National Science Foundation (NSF), the U.S. Department of Agriculture (USDA), the U.S. Department of Energy, the U.S. Department of Homeland Security, the National Aeronautics and Space Administration (NASA), or the Department of Defense (DOD). The PHS regulation in 42 *CFR* Part 93 applies to any research, research-training, or research-related grant or cooperative agreement with PHS.

Scholarship and research includes research, activities related to that research, including research training, any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether that research has outside funding. This policy does not apply to authorship or collaboration disputes and applies only to allegations of research misconduct that occurred, was published, or was intentionally disseminated within six years of the date the University received the allegation, subject to exceptions established by federal law or policy of a federal sponsor. (42 *CFR* 93.105(b))

C. Procedural Variations

The policy and associated procedures will normally be followed when an allegation of possible research misconduct (as defined herein) is received by a University official. Particular circumstances in an individual case may dictate variation from the normal procedure deemed in the best interests of the University and the federal sponsor. Change in procedures may include recusal of the Research Integrity Officer (RIO) and/or the Deciding Official (DO) in a given matter and appointment of a temporary RIO and/or DO. Any change from normal procedures also must ensure fair treatment to the subject of the inquiry or investigation. Any significant variation should be approved in advance by the Vice President for Research and Dean of the Graduate School of the University.

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II. DEFINITIONS

Allegation means a disclosure of possible research misconduct through any means of communication. The disclosure may be a written or oral statement or other communication to an institutional office or sponsor.

Complainant means a person who in good faith makes an allegation of research misconduct.

Conflict of interest means the real or apparent interference of one person's interests with their public duty or duty to the University, where potential bias may occur due to prior or existing personal or professional relationships.

Deciding official (DO) means the University official who makes final determinations on allegations of research misconduct and any University administrative actions. The DO will not be the same individual as the RIO and should have no direct prior involvement in the University's inquiry, investigation, or allegation assessment. At the University, the DO is the Provost. A DO's appointment of an individual to assess allegations of research misconduct is not considered direct prior involvement.

Evidence means 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 is making up data or results and recording or reporting them.

Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

Federal sponsor means a federal agency authorized to award grants, contracts, or cooperative agreements or associated applications.

Good faith as applied to a complainant or witness means that he or she believes in the truth of his or her allegation or testimony and that a reasonable person in the same position would agree, based on the information known to the complainant or witness at the time. A complainant or witness does not act in good faith if their allegation or cooperation with a research misconduct proceeding is made with knowing or reckless disregard for information that would negate the allegation or testimony.

A committee member acts in good faith if he or she cooperates with the purpose of helping the University meet its responsibilities under this policy, 42 *CFR* Part 93, and other federal and state law. A committee member does not act in good faith if his or her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding, or willful ignorance of facts that would disprove the allegation.

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

Institutional member or members means a person who is employed by, is an agent of, or is affiliated by contract or agreement with the University. Institutional members may include, but are not limited to, officials, tenured and untenured faculty, teaching and support staff, researchers, research coordinators, clinical technicians, postdoctoral and other fellows, students, volunteers, agents, and contractors, subcontractors, subawardees, and their employees.

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

Notice means a written communication served in person, sent by mail or its equivalent to the last known street address, facsimile number, or e-mail address of the addressee.

Office of Research Integrity (ORI) means the office to which the United States Department of Health and Human Services (HHS) Secretary has delegated responsibility for addressing research integrity and misconduct issues related to PHS-supported activities.

Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit. This includes appropriation of ideas obtained through confidential review of others' research proposals and manuscripts.

Preponderance of evidence means proof by information that, when compared with opposing information, leads to the conclusion that the fact at issue is more probably true than not.

Research Integrity Officer (RIO) is the University official responsible for:

1. Assessing allegations of research misconduct to determine when such allegations warrant inquiries;
2. Overseeing inquiries and investigations; and
3. Other responsibilities described in the policy.

At the University, the RIO is the Vice President for Research and Dean of the Graduate School.

Research means a systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) relating broadly to public health by establishing, discovering, developing, elucidating or confirming information about, or the underlying mechanism relating to, biological causes, functions or effects, diseases, treatments, or related matters to be studied.

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Research misconduct means misconduct in research and scholarship fabrication or falsification of data, plagiarism, or other serious deviations from accepted practice in proposing, implementing, or reporting on research.

Research misconduct does not include honest error or honest differences in interpretations or judgments of data.

Research misconduct proceeding means any actions related to alleged research misconduct taken under this part, including but not limited to, allegation assessments, inquiries, investigations, ORI oversight reviews, hearings, and administrative appeals.

Research record means the record of data or results that embody the facts resulting from scientific inquiry, including but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to a federal sponsor or a University official by a respondent in the course of the research misconduct proceeding.

Research sponsor means the agency or organization, if any, that sponsored the research that is the subject of an inquiry or investigation. The research sponsor can be governmental, private, or nonprofit in nature. If no external agency sponsored the work, then the University is considered the research sponsor.

Respondent means the person against whom an allegation of research misconduct is directed or who is the subject of a misconduct proceeding. There can be more than one respondent in any misconduct proceeding.

Retaliation for the purpose of this part means an adverse action taken against a complainant, witness, or committee member by an institution or one of its members in response to: 1) a good faith allegation of research misconduct; or 2) good faith cooperation with a research misconduct proceeding.

Sponsor means any entity, including the University, which supports research through but not limited to gift, grant, contract, cooperative agreement, or budget allocation.

III. RIGHTS AND RESPONSIBILITIES

A. Research Integrity Officer

The Vice President for Research and Dean of the Graduate School will serve as the RIO who will have primary responsibility for implementation of the University's policies and procedures on research misconduct. The RIO must handle the substantive and procedural requirements of this policy. The RIO can make the determination if the allegation received is governed by a different University policy.

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A. Research Integrity Officer (cont.)

The RIO will appoint the inquiry committee (or individual) and investigation committee and ensure that the necessary and appropriate expertise is secured to carry out a thorough and authoritative evaluation of the relevant evidence in an inquiry or investigation.

The RIO will attempt to ensure that confidentiality is maintained.

The RIO will assist inquiry and investigation committees and all institutional members in complying with these procedures and with applicable standards imposed by law or a sponsor.

The RIO is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files.

If the research is federally funded, the RIO will report to the federal sponsor as required by applicable regulations and keep the federal sponsor apprised of any developments during the course of the inquiry or investigation that may affect current or potential federal funding for the individual(s) under investigation or that the federal sponsor needs to know to ensure appropriate use of federal funds and otherwise protect the public interest. In the case of a nonfederal sponsor of research, where that research is the subject of an inquiry or investigation, the RIO will keep the nonfederal sponsor informed as to the inquiry and investigation as he or she deems appropriate.

B. Complainant

The complainant will have an opportunity to testify before the inquiry and investigation committees, to review portions of the inquiry and investigation reports pertinent to his/her allegations or testimony, to be informed of the results of the inquiry and investigation, and to be protected from retaliation. Also, if the RIO has determined that the complainant may be able to provide pertinent information on any portions of the draft report, these portions will be given to the complainant for comment.

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation.

C. Respondent

The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation. The respondent is entitled to:

1. A good faith effort from the RIO to notify the respondent in writing at the time or before beginning an inquiry;

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C. Respondent (cont.)

2. An opportunity to comment on the inquiry report and have his/her comments attached to the report;
3. Be notified of the outcome of the inquiry, and receive a copy of the inquiry report that includes a copy of the University's and any federal sponsor policies and procedures on research misconduct;
4. Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins (within 30 days after the University decides to begin an investigation), and be notified in writing of any new allegations not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;
5. Be interviewed during the investigation, have the opportunity to correct the recording or transcript, and have the corrected recording or transcript included in the record of the investigation;
6. Have interviewed during the investigation any witness who has been reasonably identified by the respondent as having information on relevant aspects of the investigation, have the recording or transcript provided to the witness for correction, and have the corrected recording or transcript included in the record of investigation; and
7. Receive a copy of the draft investigation report and, concurrently, a copy of, or supervised access to the evidence on which the report is based, and be notified that any comments must be submitted within 30 days of the date on which the copy was received and that the comments will be considered by the University and addressed in the final report.

The respondent should be given the opportunity to admit that research misconduct occurred and that he or she 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 research is sponsored by a federal sponsor, the University's acceptance of the admission and any proposed settlement must be approved by the federal sponsor.

D. Deciding Official (DO)

The DO will receive the inquiry and/or investigation report and any written comments made by the respondent or the complainant on the draft report. The DO will consult with the RIO and/or other University officials and determine whether to conduct an investigation, whether misconduct occurred, whether to impose sanctions, or whether to take other appropriate administrative actions.

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IV. GENERAL POLICIES AND PRINCIPLES

A. Responsibility to Report Misconduct

All institutional members should report observed, suspected, or apparent misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may contact the RIO to discuss the suspected research misconduct informally which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, an institutional member may have confidential discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.

B. Cooperation with Research Misconduct Proceedings

Institutional members will cooperate with the RIO and other University officials in the review of allegations and the conduct of inquiries and investigations. Institutional members have an obligation to provide relevant evidence to the RIO or other University officials.

C. Confidentiality

Disclosure of the identity of respondents and complainants in research misconduct proceedings is limited, to the extent possible, to those who need to know, consistent with a thorough, competent, objective, and fair research misconduct proceeding, and as allowed by law. Provided, however, that the University must disclose the identity of respondents and complainants to the applicable federal sponsor, pursuant to the sponsor's review of research misconduct proceedings.

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

The RIO should use written confidentiality agreements or other mechanisms to ensure that the recipient does not make any further disclosure of identifying information.

D. Protecting the Complainants, Witnesses, and Committee Members

The RIO will monitor the treatment of individuals who bring allegations of misconduct or of inadequate University response to those allegations, and those who cooperate in inquiries or investigations. The RIO will ensure that these individuals will not be retaliated against in the terms and conditions of their employment or other status at the University and will review instances of alleged retaliation for appropriate action.

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D. Protecting the Complainants, Witnesses, and Committee Members (cont.)

The University will protect the privacy of those who report misconduct in good faith to the maximum extent possible. The University is required to undertake diligent efforts to protect the positions and reputations of those individuals who, in good faith, make allegations.

Institutional members may not retaliate in any way against complainants, witnesses, or committee members. Institutional members should immediately report any alleged or apparent retaliation against complainants, witnesses, or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

E. Protecting the Respondent

As requested and as appropriate, the RIO and other University officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.

During the research misconduct proceeding, the RIO is responsible for ensuring that respondents receive all the notices. Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the respondent(s) in the inquiry or investigation and confidentiality to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry or investigation.

Respondents may consult with legal counsel or a nonlawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the counsel or personal adviser to interviews or meetings on the case.

V. CONDUCTING THE INQUIRY

A. Assessment of Allegations

Upon receiving an allegation of research misconduct, the RIO will immediately assess the allegation to determine if there is sufficient evidence to warrant an inquiry, if there is a federal sponsor, and if the allegation falls under the definition of research misconduct.

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

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B. Initiation and Purpose of the Inquiry

If the RIO determines the allegation falls within the definition of research misconduct and is sufficiently credible and specific so that potential evidence of research misconduct may be identified, he or she will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.

C. Sequestration of Research Records

On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO must promptly take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner; where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments.

D. Notice to Respondent

At the time of, or before beginning an inquiry, the RIO must make a good faith effort to notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, the RIO must notify them.

E. Appointment of the Inquiry Committee

The RIO will consult with other University officials as appropriate and will appoint an inquiry committee and committee chair as soon after the initiation of the inquiry as is practical. The inquiry committee should consist of individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegation, interview the principals and witnesses, and conduct the inquiry.

The RIO has the discretion to individually perform the inquiry. If the RIO performs the inquiry individually, he or she is responsible for all duties of the Inquiry Committee as set forth in this policy.

The RIO will notify the respondent of the proposed committee membership within ten calendar days. If the respondent submits a written objection to any appointed member of the inquiry committee or expert based on bias or conflict of interest within five business days, the RIO will determine if the challenged member or expert should be replaced with a qualified substitute.

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F. Charge to the Committee and the First Meeting

The RIO will prepare a charge for the inquiry committee that describes: 1) the allegations and any related issues identified during the allegation assessment; 2) 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 if an investigation is warranted; 3) that an investigation is warranted if there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct and preliminary information gathering and preliminary fact finding from the inquiry indicates that the allegation may have substance. The purpose is not to determine whether research misconduct definitely occurred or who was responsible.

At the committee's first meeting, the RIO will: 1) review the charge with the committee, 2) discuss the allegations and any related issues, 3) review the appropriate procedures for conducting the inquiry, 4) assist the committee with organizing plans for the inquiry, and 5) answer any questions raised by the committee. The RIO and University counsel will be present or available throughout the inquiry to advise the committee as needed.

G. Inquiry Process

The inquiry committee will normally interview the complainant, the respondent, and key witnesses, as well as examine relevant research records and materials. Then the inquiry committee will evaluate the evidence and testimony obtained during the inquiry. After consultation with the RIO and University counsel, the committee members will decide if there is sufficient evidence of possible research misconduct to recommend further investigation. The scope of the inquiry does not include deciding if misconduct occurred or conducting exhaustive interviews and analyses.

H. Time for Completion

The inquiry, including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted, must be completed within 60 calendar days of the first meeting with the inquiry committee, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the inquiry record must include documentation of the reasons for exceeding the 60 calendar days. The RIO must notify the respondent of any extensions.

VI. THE INQUIRY REPORT

A. Elements of the Inquiry Report

A written inquiry report must be prepared that states:

1. Name and position of the respondent;
2. Names and titles of the committee members and experts, if any;

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A. Elements of the Inquiry Report (cont.)

3. Description of the allegations of research misconduct;
4. Federal sponsor support, which should include grant numbers, grant applications, contracts, and publications listing federal support;
5. List of publications based upon the research which is the subject of the allegations;
6. Summary of the inquiry process; a list of research records reviewed; summaries of any interviews; a description of the evidence in sufficient detail to demonstrate whether an investigation is warranted;
7. Committee's determination and recommendation whether an investigation is warranted;
8. Whether any other actions should be taken if an investigation is not recommended; and
9. Comments on the report by the respondent or complainant.

University counsel will review the report for legal sufficiency.

In accordance with 42 *CFR* 93.318, institutions must notify any federal sponsor, as relevant, of any special circumstances that may exist.

B. Comments on the Draft Report by the Respondent and the Complainant

The RIO will provide the respondent with a copy of the draft inquiry report for comment and may provide the complainant with relevant portions of the draft inquiry report that address the complainant's role in the inquiry.

1. Confidentiality

The RIO may establish reasonable conditions for review to protect the confidentiality of the draft report.

2. Receipt of Comments

Within 14 calendar days of their receipt of the draft report, the respondent and complainant may provide their comments, to the inquiry committee. Any comments that are submitted by the respondent or complainant will be attached to the final inquiry report. Based on the comments, the inquiry committee may revise the report as appropriate.

C. Inquiry Decision and Notification

1. Decision by DO

The RIO will transmit the final report and any comments to the DO, who will determine in writing whether findings from the inquiry provide sufficient evidence of possible research misconduct to justify conducting an investigation.

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2. Notification Respondent and Complainant

The RIO will notify both the respondent and the complainant in writing of the DO's decision to proceed or not to proceed to an investigation and will remind them of their obligation to cooperate in the event an investigation is opened. The RIO will also notify all appropriate University officials of the DO's decision.

3. Notification to Federal Sponsor

Within 30 calendar days of the DO decision that an investigation is warranted, the RIO must provide the federal sponsor with the written DO decision and a copy of the inquiry report.

The RIO must provide the following information to the federal sponsor on request:

- i. University policies and procedures under which the inquiry was conducted;
- ii. Research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and
- iii. The charges for the investigation to consider.

4. Documentation and Decision Not to Investigate

If the DO decides that an investigation is not warranted, the RIO shall secure and maintain for seven years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by the federal sponsor of the reasons why an investigation was not conducted. These documents must be provided to the federal sponsor or other authorized HHS personnel upon request.

VII. CONDUCTING THE INVESTIGATION

A. Initiation and Purpose

The investigation must begin within 30 calendar days after the determination by the DO that an investigation is warranted. The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically if misconduct has been committed, by whom, and to what extent. The investigation will also determine if there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged misconduct involves clinical trials or potential harm to human subjects or the general public, or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation will be set forth in an investigation report.

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B. Burden of Proof

The following evidentiary standards apply to the findings made in an investigation of research misconduct.

1. Standard of proof.

The finding of research misconduct must be proved by a preponderance of the evidence.

2. Burden of proof.

- i. The University has the burden of proof for making a finding of research misconduct. The destruction, absence of, or respondent's failure to provide research records adequately documenting the questioned research is evidence of research misconduct where the University establishes by a preponderance of the evidence that the respondent intentionally, knowingly, or recklessly had research records and destroyed them, had the opportunity to maintain the records but did not do so, or maintained the records and failed to produce them in a timely manner and that the respondent's conduct constitutes a significant departure from accepted practices of the relevant research community.
- ii. The respondent has the burden of going forward with and the burden of proving, by a preponderance of the evidence, any and all affirmative defenses raised. In determining whether the University has carried the burden of proof imposed by this part, the finder of fact shall give due consideration to admissible, credible evidence of honest error or difference of opinion presented by the respondent.
- iii. The respondent has the burden of going forward with and proving by a preponderance of the evidence any mitigating factors that are relevant to a decision to impose sanctions following a research misconduct proceeding.

C. Notice to the Respondent

The RIO will notify the respondent in writing of the allegations within a reasonable amount of time after determining that an investigation is warranted, but before the investigation begins. The RIO must give the respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of investigation. University counsel must review each notice before it is sent to the respondent.

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D. Sequestration of the Research Records

The RIO will immediately sequester any additional pertinent research records that were not previously sequestered during the inquiry. This sequestration should occur before, or at the time, the respondent is notified that an investigation has begun. The need for additional sequestration of records may occur for any number of reasons, including the University's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

E. Appointment of the Investigation Committee

The RIO, in consultation with other University officials as appropriate, will appoint an investigation committee and the committee chair within ten calendar days of the notification to the respondent that an investigation is planned or as soon thereafter as practicable. The investigation committee should consist of at least three individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegations, interview the principals and key witnesses, and conduct the investigation. Individuals appointed to the investigation committee may also have served on the inquiry committee.

The RIO will notify the respondent of the proposed committee membership within ten calendar days. If the respondent submits a written objection to any appointed member of the investigations committee or expert based on bias or conflict of interest within five business days, the RIO will determine if the challenged member or expert should be replaced with a qualified substitute.

F. Charge to the Committee and the First Meeting

1. Charge to the Committee

The RIO will define the subject matter of the investigation in a written charge to the committee that describes the allegations and related issues identified during the inquiry, define research misconduct, and identifies the respondent. The charge will state that the committee is to evaluate the evidence and testimony of the respondent, complainant, and key witnesses to determine if, based on a preponderance of the evidence, research misconduct occurred and, if so, to what extent, who was responsible, and its seriousness.

The RIO informs the committee that in order to determine that the respondent committed research misconduct it must find that a preponderance of the evidence establishes that:

- i. Research misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion);

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1. Charge to the Committee (cont.)
 - ii. The research misconduct is a significant departure from accepted practices of the relevant research community; and
 - iii. The respondent committed the research misconduct intentionally, knowingly, or recklessly.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or suggest additional respondents, the committee will notify the RIO, who will determine if it is necessary to notify the respondent of the new subject matter or to provide notice to additional respondents.

2. The First Meeting

The RIO, with the assistance of University counsel, will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for conducting the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this policy and, if a federal sponsor funding is involved, the federal sponsor regulation.

G. Investigation Process

The committee will interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent. The committee will record (either video or voice) and/or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation.

The committee will pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion.

The committee will use diligent efforts to ensure the investigation is thorough and sufficiently documented. The investigation will normally involve examination of all documentation including, but not necessarily limited to, relevant research records, computer files, proposals, manuscripts, publications, correspondence, memoranda, and notes of telephone calls.

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H. Time for Completion

The investigation is to be completed within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment, and sending the final report to the federal sponsor. However, if the RIO determines that the investigation will not be completed within this 120-day period or the time period established by the relevant research sponsor, he or she will submit to the federal sponsor or relevant research sponsor, a written request for an extension, setting forth the reasons for the delay.

VIII. THE INVESTIGATION REPORT

A. Elements of the Investigation Report

The final report submitted must include the following:

1. Description of the nature of the allegations of research misconduct;
2. Description of funding, which may include federal sponsorship, of the research at issue. This should include any grant numbers, grant applications, contracts and publications;
3. Specific allegations of research misconduct considered;
4. Policies and procedures of the misconduct proceeding;
5. Description of research records and evidence, which should identify and summarize those research records and evidence taken into custody and state whether the evidence or testimony was considered in reaching the findings and conclusions;
6. Statement of findings, which should identify each separate allegation of research misconduct identified during the investigation, provide a finding to each stating whether the allegation did or did not occur, and if so, identify whether the misconduct was falsification, fabrication or plagiarism, and if it was intentional, knowing, or in reckless disregard;
7. Identify whether any publications need correction or retraction;
8. Identify any person responsible for the misconduct;
9. List any current support or known applications or proposals for support that the respondent has pending; and
10. Include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct as well as a description of any sanctions imposed and administrative actions taken by the University.

When appropriate, the report may include recommendations to the DO.

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B. Comments on the Draft Report

1. Respondent

The RIO will provide the respondent with the draft investigation report for comment. In addition, the respondent will be given notice that he or she may have supervised access to the evidence on which the report is based. The respondent will be allowed 30 calendar days to review and comment on the draft report. The respondent's comments will be attached to the final report. The findings of the final report should take into account the respondent's comments, as appropriate, in addition to all the other evidence.

2. Complainant

The RIO may provide the complainant, with those portions of the draft investigation report that address the complainant's role and opinions in the investigation. The report should be modified, as appropriate, based on the complainant's comments.

3. University Counsel

The draft investigation report will be transmitted to University counsel for a review of its legal sufficiency. Comments should be incorporated into the report as appropriate.

4. Confidentiality

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

C. University Review and Decision

The RIO will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent's [Option: and complainant's] comments are included and considered, and transmit the final investigation report to the DO, who will determine based on the preponderance of the evidence in writing:

1. Whether the University accepts the investigation report, its findings, and the recommended University action; and
2. The appropriate University action in response to the accepted findings of research misconduct.

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C. University Review and Decision (cont.)

If this determination varies from the findings of the investigation committee, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the DO may return the report to the investigation committee with a request for further fact-finding or analysis.

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

IX. REQUIREMENTS FOR REPORTING

- A. A University decision to initiate an investigation must be reported in writing to the federal sponsor, on or before the date the investigation begins. At a minimum, the notification should include the name of the person(s) against whom the allegations have been made, the general nature of the allegation as it relates to the federal sponsor's definition of research misconduct, and the federal sponsor applications or grant number(s) involved. The federal sponsor must also be notified of the final outcome of the investigation and must be provided with a copy of the investigation report. Any significant variations from the provisions of the University policies and procedures should be explained in any reports submitted to the federal sponsor.
- B. If the University plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of the federal sponsor's regulation, the RIO will submit a report of the planned termination to the federal sponsor, including a description of the reasons for the proposed termination.
- C. If the University determines that it will not be able to complete the investigation in 120 calendar days, the RIO will submit to the federal sponsor a written request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken. If the request is granted, the RIO will file periodic progress reports as requested by the federal sponsor.
- D. When federal sponsor funding or applications for funding are involved and an admission of research misconduct is made, the RIO will contact the federal sponsor for consultation and advice. Normally, the individual making the admission will be asked to sign a statement attesting to the occurrence and extent of misconduct. When the case involves federal sponsor funds, the University cannot accept an admission of research misconduct as a basis for closing a case or not undertaking an investigation without prior approval from the federal sponsor.

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- E. The RIO will notify the federal sponsor at any stage of the inquiry or investigation if:
1. There is an immediate health hazard involved;
 2. There is an immediate need to protect federal funds or equipment;
 3. There is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations, as well as his/her co-investigators and associates, if any;
 4. It is probable that the alleged incident is going to be reported publicly; or
 5. The allegation involves a public health sensitive issue, e.g., a clinical trial; or
 6. There is a reasonable indication of possible criminal violation. In this instance, the University must inform the federal sponsor within 24 hours of obtaining that information.

X. UNIVERSITY ADMINISTRATIVE ACTIONS

The University will take appropriate administrative actions against individuals when an allegation of misconduct has been substantiated. If the DO determines that the alleged misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken, after consultation with the RIO. The actions may include:

1. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;
2. Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
3. Restitution of funds as appropriate; and/or
4. Other action appropriate to the research misconduct.

XI. OTHER CONSIDERATIONS

A. Termination or Resignation Prior to Completing Inquiry or Investigation

The termination of the respondent's University employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the misconduct procedures.

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

B. Restoration of the Respondent's Reputation

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If the University finds no misconduct and the federal sponsor, if any, concurs, at the request of the respondent, the RIO will undertake reasonable efforts to restore the respondent's reputation. Depending on the particular circumstances, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of research misconduct was previously publicized, or expunging all reference to the research misconduct allegation from the respondent's personnel file. Any University action to restore the respondent's reputation must first be approved by the DO.

C. Protection of the Complainant and Others

Regardless of whether the University or the federal sponsor determines that research misconduct occurred, the RIO will undertake reasonable efforts to protect complainants who made allegations of research misconduct in good faith and others who cooperate in good faith with the research misconduct proceedings. Upon completion of an investigation, the DO will determine, after consulting with the complainant if appropriate what steps, if any, are needed to restore the position or reputation of the complainant. The RIO is responsible for implementing any steps the DO approves.

D. Allegations Not Made in Good Faith

If relevant, the DO will determine if the complainant's allegations of research misconduct were made in good faith. If an allegation was not made in good faith, the DO will determine if any administrative action should be taken against the complainant.

E. Interim Administrative Actions

University officials will take interim administrative actions, as appropriate, to protect federal, state, and University funds, human or animal subjects, and the integrity of the research.

XII. RECORD RETENTION

After completion of a case and all ensuing related actions, the RIO will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the RIO or committees. The RIO will keep the file for at least seven years after completion of the case to permit later assessment of the case. Appropriate research sponsor personnel and, if federal funds are involved, federal sponsor personnel will be given access to the records upon request.