

**INDIANA UNIVERSITY**  
**POLICY ON RESEARCH INTEGRITY**  
**AND**  
**GUIDELINES FOR ESTABLISHING PROCEDURES FOR RESPONDING TO**  
**ALLEGATIONS OF RESEARCH MISCONDUCT**

**By Action of the University Faculty Council: February 10, 1998**

**INTRODUCTION**

The primary mission of the university is to search for truth, and its members are committed to this mission. Research conducted under the aegis of the university, therefore, must be guided by norms which facilitate this search, and which foster a spirit of creativity and honesty in the process. Because the conduct of research rests on the foundation of intellectual honesty, violations call into question not only the validity of the particular research project but the social context in which it is conducted. Scholars must be able to trust their peers, students must be able to trust their teachers, and citizens must be able to trust the integrity of the results of research performed in institutions of higher education.

The major responsibility for maintaining standards of intellectual integrity rests with individual scholars and with the departments in which they work. However, the larger institution has a major role to play in three respects: (1) providing an environment for open inquiry in which research can be conducted appropriately, (2) declaring the standards which must not be abrogated, and (3) enforcing the standards on those occasions where violations may have occurred. The purpose of this document is to set forth the policies and procedures by which Indiana University seeks to maintain and enforce such standards through impartial fact-finding and fair adjudication of allegations of research misconduct.

**AUTHORITY**

Responsibility for implementing and overseeing the University policy will reside with the Vice President for Research (VPR).

**APPLICABILITY**

This policy applies to all academic and staff appointees who are engaged in the conduct of research, whether or not the research is funded, and to all others affiliated with Indiana University (including students) who are engaged in research through a Sponsored Program, to the extent of that research. Other research-related misconduct on the part of students is to be dealt with through the normal disciplinary channels as provided in the Code of Student Rights, Responsibilities, and Conduct, the Code of Student Ethics promulgated by the University Graduate School, or other relevant University policies governing the conduct of students.

The procedures adopted pursuant to the policy set forth in this document will apply to all allegations of unethical research practices unless specifically prohibited by an applicable collective bargaining agreement or other disciplinary procedure established by the University.

**MULTI-CAMPUS JURISDICTION**

Cases involving multiple Respondents who are subject to the jurisdiction of different Indiana University campuses shall be handled through a single investigatory process pursuant to the Research Misconduct procedures of one of the campuses having jurisdiction over one of the Respondents. The VPR, in consultation with the chancellor(s) of the

involved campus(es), shall determine which campus process will be used. The VPR's determination shall be final.

### **LIMITATION OF ACTIONS**

Unless otherwise required by federal, state, or local law, allegations must be raised within six years of the date on which the alleged Research Misconduct occurred.

### **DEFINITIONS**

Academic Misconduct. See "Research Misconduct."

Allegation. Any written or oral statement or other indication of possible Research Misconduct made to an institutional official.

Complainant. See "Initiator."

Conflict of Interest. A Conflict of Interest occurs when a person's multiple interests create the possibility of biased decision making. This general concept of conflict is to be distinguished from financial conflicts of interest that might affect an Investigator's Research, which are covered by separate University policies. For the purposes of this document, Conflict of Interest refers generally to the possibility of compromised decision making due to relationships between the decision maker and either the Initiator, the Respondent, or the Research that is the subject of the allegations.

External Entity. Any person, trust, organization, enterprise, or other entity (including government agencies) not under the control of or under common control with the University.

Good Faith Allegation. An allegation of research misconduct made by an Initiator who believes that research misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.

Initiator. A person who submits an allegation of Research Misconduct.

Inquiry. Information gathering and initial fact-finding to determine if an allegation or apparent instance of research misconduct has substance and therefore warrants an Investigation.

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

Investigator. Any person, including but not limited to any person holding an academic or professional staff appointment at Indiana University, who is engaged in the design, conduct, or reporting of Research.

Misconduct. See "Research Misconduct."

Research. A systematic investigation designed to develop or contribute to generalizable knowledge. The term encompasses basic and applied research and product development, as well as research training activities.

Research Integrity Officer (RIO). A person identified by the Vice President for Research to have primary responsibility for assuring adherence to the policies set forth in this document and campus procedures adopted to implement it.

Research Misconduct. Indiana University defines Research Misconduct as provided in the regulations promulgated by the Public Health Service and the National Science Foundation:

Fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the research community for proposing, conducting, or reporting research. Included is retaliation of any kind against a person who reported or provided information

about suspected or alleged misconduct and who has not acted in bad faith. It does not include honest error or honest differences in interpretations or judgments of data.

The existence of bad faith motivation shall be determined by the Inquiry or Investigation Committees and, if found, may be subject to sanctions. A claim that one was not aware that an action was a serious deviation from the accepted ethical standards in scholarship is not a mitigating factor to any determination of Research Misconduct.

In interpreting this definition, we are guided by the following standards, which both elaborate on the terms used in the above definition and provide some examples of what is included. The term "Research Misconduct" thus includes but is not limited to:

1. Falsification, fabrication, or misrepresentation. Dishonesty in reporting research, including (a) reporting experiments, measurements, or statistical analyses never performed; (b) manipulating or altering data or other manifestations of the research to achieve a desired result; (c) intentionally falsifying or misrepresenting background information, including biographical data, citation of publications, or status of manuscripts; and (d) selective reporting, including the deliberate suppression of conflicting or unwanted data.
2. Misappropriation. Unacknowledged appropriation of the work of others, including plagiarism, abuse of confidentiality with respect to unpublished materials, misappropriation of physical materials, or other misappropriation of intellectual property.
  - a. Plagiarism shall be understood to mean the presentation of the documented words or ideas of another as one's own, without attribution appropriate for the medium of presentation.
  - b. Abuse of confidentiality includes the use (or release to others) of ideas or preliminary data of others which were given in the expectation of confidentiality, such as those gained from (1) access to privileged information through the opportunity for editorial review of manuscripts submitted to journals; and (2) the opportunity for peer review of proposals being considered for funding by External Entities or by internal committees such as the Human Subjects Committee, the Animal Care and Use Committee, or other committees through which one gains access to privileged research-related information.
  - c. Misappropriation of physical materials. The intentional taking of or imposition of damage to the research-related property of another, including apparatus, reagents, biological materials, writings, data, hardware, software, or any other substance or device used or produced in the conduct of research.
  - d. Other misappropriation of intellectual property includes failure to designate authorship where appropriate.
3. Noncompliance with research regulations. Serious noncompliance with research regulations (including but not limited to those governing the use of biohazardous materials, human subjects, laboratory animals, new drugs, radioactive materials, genetically altered organisms, and safety) after notice of their existence by the University or federal, state, or other appropriate agency.
4. Failure to report observed Research Misconduct. The failure on the part of any member of the University community who has actual knowledge of activities constituting Research Misconduct to bring such activities to the attention of the University by informing either the Unit Executive, the Research Integrity Officer, or the chair of the Standing Committee on Research Integrity. Included is any effort to cover up major episodes of misconduct. The degree of involvement with the project and the level of responsibility held are key determinants of when the failure to report becomes a sanctionable offense.
5. Obstruction of Investigations of Research Misconduct. Obstruction of Investigations of Research Misconduct consists of intentionally withholding or destroying evidence in violation of a duty to disclose or preserve; falsifying evidence; subornation or intentionally providing false information; and attempting to intimidate or retaliate against persons who have provided or may provide information or who may provide potential leads to other persons or evidence before, during, or after the commencement of any formal or

informal proceeding.

6. Retaliation. Any adverse action against a person who reports or provides information about suspected or alleged misconduct and who has acted in good faith.

Research Record. Any data, document, computer file, computer diskette, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of Research Misconduct. 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; printed or electronic correspondence; memoranda of telephone calls; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.

Respondent. The person against whom an allegation of Research Misconduct is directed, or the person whose actions are the subject of the Inquiry or Investigation.

Retaliation. Any adverse action against a person who reports or provides information about suspected or alleged misconduct and who has acted in good faith.

RIO. See "Research Integrity Officer."

Sponsored Programs. Research, training, and instructional projects involving funds, materials, gifts, or other compensation from External Entities under agreements with the University.

Unit Executive. Dean, chair, or director of the unit in which the alleged misconduct occurred.

VPR. The Vice President for Research.

## CONFIDENTIALITY

Institutional activities engaged in pursuant to this policy shall be conducted in such a way as to protect the privacy and confidentiality of Initiators and Respondents to the extent possible consistent with protecting the public health and safety and with carrying out the Inquiry or Investigation. If the Initiator requests anonymity, the University will strive to honor the request within the limits set by applicable policies and regulations and federal, state, and local law.

## RESTORING REPUTATIONS

The University will make diligent efforts, as appropriate, to restore the reputations of persons alleged to have engaged in Research Misconduct when allegations are not confirmed.

## RETALIATION

The University will make diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations and those who cooperate with an Inquiry or Investigation into an allegation of Research Misconduct. Instances of apparent retaliation will be reviewed by the VPR for appropriate action; appropriate preventative measures may be instituted.<sup>1</sup>

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<sup>1</sup> In the absence of specific procedures for protecting persons from retaliation, the University will look to government guidelines developed for this purpose. (See, e.g., Commission on Research Integrity, Integrity and Misconduct in Research: Report of the Commission on Research Integrity, Recommendation 7: "Responsible Whistleblowing: A Whistleblower's Bill of Rights," pp. 36-38 (1995); Office of Research Integrity, Department of Health and Human Services, "Draft Whistleblower Protection Guidelines" (October 30, 1995) reprinted in

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Commission on Research Integrity, *Integrity and Misconduct in Research: Report of the Commission on Research Integrity*, Appendix E, pp. 56-67 (1995).

## ROLE OF COUNSEL

The University (including the RIO, Unit Executive, VPR, or others acting on the University's behalf in the investigatory process) may consult with the University Counsel on procedural matters at any stage of the proceedings. The Respondent may be accompanied by counsel of his or her choice when interviewed in the course of an Inquiry or Investigation. Respondent's counsel may provide the Respondent advice, but may not participate in the proceedings.

## CONFLICT OF INTEREST

No decision maker in the process shall have a Conflict of Interest that might compromise his or her objectivity. A conflict exists when: (1) a decision maker has a close personal or professional relationship with the Respondent or Initiator [e.g., current or former students or mentor, direct supervisory or subordinate relationship (other than as Unit Executive-unit member), direct collaborator within the past seven years]; (2) a decision maker has or has had professional differences of opinion with any of the involved individuals that might reasonably be expected to affect objectivity in considering the case; (3) a decision maker has financial ties to the involved individuals; or (4) when there are any other reasons that might affect his or her ability to provide an objective review of the allegations. The Initiator, Respondent, or any other participant in the process may raise objections on the basis of Conflict of Interest.

## CAMPUS PROCEDURES

Each campus shall develop procedures through which allegations of Research Misconduct are to be handled. If a campus elects not to adopt its own procedures, the procedures established for the Bloomington campus will apply. The Bloomington campus "Procedures for Responding to Allegations of Research Misconduct" are set forth in Appendix A.

Campus procedures must provide for a two-stage process consisting of (1) an "inquiry" and (2) an "investigation." Inquiries are information gathering and initial fact-finding to determine whether an allegation or apparent instance of research misconduct warrants an Investigation. Investigations are the formal examination and evaluation of all relevant facts to determine whether misconduct has occurred, and, if so, the responsible person and the seriousness of the misconduct.

The procedures may differ substantially from campus to campus, but must provide for:<sup>2</sup>

1. Reporting allegations of Research Misconduct to officials within the University.
2. Inquiring immediately into an allegation or other evidence of possible Research Misconduct. An Inquiry must be completed within 60 calendar days of its initiation unless circumstances clearly warrant a longer period. A written report shall be prepared that states what evidence was reviewed, summarizes relevant interviews, and includes the conclusions of the Inquiry. The individual(s) against whom the allegation was made shall be given a copy of the Inquiry report. If they comment on that report, their comments will be made part of the record. If the Inquiry takes longer than 60 calendar days to complete, the record of the Inquiry shall include documentation of the reasons for exceeding the 60-day period.
3. Protecting, to the maximum extent possible, the privacy of those who in good faith report apparent misconduct.
4. Affording the affected individual(s) confidential treatment to the maximum extent possible, a prompt and thorough Investigation, and an opportunity to comment on allegations and findings of the Inquiry and/or the Investigation.

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<sup>2</sup> These requirements are drawn from U.S. Public Health Service regulations governing institutional responsibilities in responding to allegations of research misconduct. See 42 Code of Federal Regulations Part 50, Sections 101 et seq. All campus procedures must, at a minimum, adhere to these standards.

5. Securing necessary and appropriate expertise to carry out a thorough and authoritative evaluation of the relevant evidence in any Inquiry or Investigation.
6. Maintaining sufficiently detailed documentation of Inquiries to permit a later assessment of the reasons for determining that an Investigation was not warranted, if such was the conclusion of the Inquiry. Such records shall be maintained in a secure manner for a period of at least three years after the termination of the Inquiry, and shall, upon request, be provided to authorized agency personnel, to the extent and in the manner required by law or agency policy.
7. Undertaking an Investigation within 30 calendar days of the completion of the Inquiry, if findings from that Inquiry provide sufficient basis for conducting an Investigation. The Investigation normally will include examination of all Research Records. Whenever possible, interviews should be conducted of all individuals involved either in making the allegation or against whom the allegation is made, as well as other individuals who might have information regarding key aspects of the allegations; complete summaries of these interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file.
8. Completing Investigations within 120 calendar days of their initiation. This includes conducting the Investigation, preparing the report of findings, making that report available for comment by the subjects of the Investigation, and, if required, submitting the report to the funding agency. Extensions of time must be approved by the Vice President for Research and, if required by law or agency policy, by the funding agency.
9. Taking precautions against real or apparent conflicts of interest on the part of those involved in the Inquiry or Investigation.
10. Preparing and maintaining the documentation to substantiate the Investigation's findings. Such records shall be maintained in a secure manner for a period of at least three years after the termination of the Investigation and shall, upon request, be provided to authorized agency personnel, to the extent and in the manner required by law or agency policy.
11. Taking interim administrative actions, as appropriate, to protect the health and safety of research subjects or patients, to protect the interests of students and colleagues, to preserve evidence, and to protect resources.
12. Undertaking diligent efforts, as appropriate, to restore the reputations of persons alleged to have engaged in research misconduct when allegations are not confirmed, and also undertaking diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations or who cooperate in an Inquiry or Investigation.
13. Imposing appropriate sanctions on individuals when the allegation of research misconduct has been substantiated.
14. Providing notification or other reporting to funding agencies to the extent and in the manner required by law or agency policy.

**Appendix A**

**INDIANA UNIVERSITY  
BLOOMINGTON CAMPUS**

**PROCEDURES FOR RESPONDING TO  
ALLEGATIONS OF RESEARCH MISCONDUCT**

**By Action of Bloomington Faculty Council: November 4, 1997**

This document constitutes the procedures for responding to allegations of Research Misconduct for the Bloomington campus, developed as required by the University's "Policy on Research Integrity and Guidelines for Establishing Procedures for Responding to Allegations of Research Misconduct" and by federal law.<sup>3</sup>

**APPLICABILITY**

These procedures apply to all academic and staff appointees who are engaged in the conduct of research, whether or not the research is funded, and to all others affiliated with Indiana University (including students) who are engaged in research through a Sponsored Program, to the extent of that research. Other research misconduct on the part of students is to be dealt with through the normal disciplinary channels as provided in the Code of Student Conduct, the Code of Student Ethics promulgated by the University Graduate School, or other relevant University policies governing the conduct of students.

Part of the maintenance and perpetuation of high ethical standards includes the responsibility to report research misconduct. If University colleagues observe misconduct, they are expected to report it as provided for in these procedures.

These procedures constitute the exclusive process for raising and resolving allegations of research misconduct, as defined herein. In cases involving more than one aspect of possible misconduct (e.g., research misconduct plus discrimination or sexual harassment), it is intended that the other aspects of the case be separated from the research misconduct issues. The other aspects of the case are to be handled through the offices that are responsible for receiving and resolving such disputes; allegations of research misconduct that come within the jurisdiction of these procedures may be handled only under the auspices of the Vice President for Research pursuant to these procedures. The Research Integrity Officer will cooperate with other offices to ensure that the various aspects of a case are addressed and to coordinate the timing of multiple dispute resolution processes so as to ensure fair treatment of the persons involved.

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<sup>3</sup> See, e.g., 42 CFR 50.101 et seq. (Public Health Service, "Responsibility of PHS Awardee and Applicant Institutions for Dealing With and Reporting Possible Misconduct in Science") and 45 CFR 689 et seq. (National Science Foundation, "Misconduct in Science and Engineering").

## MULTI-CAMPUS JURISDICTION

Cases involving multiple Respondents who are subject to the jurisdiction of different Indiana University campuses shall be handled through a single investigatory process pursuant to the Research Misconduct procedures of one of the campuses having jurisdiction over one of the Respondents. The VPR, in consultation with the chancellor(s) of the involved campus(es), shall determine which campus process will be used. The VPR's determination shall be final.

## LIMITATION OF ACTIONS

Unless otherwise required by federal, state, or local law, allegations must be raised within six years of the date on which the alleged Research Misconduct occurred.

## DEFINITIONS

Academic Misconduct. See "Research Misconduct."

Allegation. Any written or oral statement or other indication of possible Research Misconduct made to an institutional official.

Complainant. See "Initiator."

Conflict of Interest. A Conflict of Interest occurs when a person's multiple interests create the possibility of biased decision making. This general concept of conflict is to be distinguished from financial conflicts of interest that might affect an Investigator's Research, which are covered by separate University policies. For the purposes of this document, Conflict of Interest refers generally to the possibility of compromised decision making due to relationships between the decision maker and either the Initiator, the Respondent, or the Research that is the subject of an Allegation.

External Entity. Any person, trust, organization, enterprise, or other entity (including government agencies) not under the control of or under common control with the University.

Good Faith Allegation. An Allegation of Research Misconduct made by an Initiator who believes that Research Misconduct may have occurred. An Allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the Allegation.

Initiator. A person who submits an Allegation of Research Misconduct.

Inquiry. Information gathering and initial fact finding to determine whether an Allegation or apparent instance of Research Misconduct has substance and therefore warrants an Investigation.

Investigation. The formal examination and evaluation of all relevant facts to determine whether Research Misconduct has occurred, and, if so, the responsible person and the seriousness of the

misconduct.

Investigator. Any person, including but not limited to any person holding an academic or professional staff appointment at Indiana University, who is engaged in the design, conduct, or reporting of Research.

Misconduct. See "Research Misconduct."

Research. A systematic investigation designed to develop or contribute to generalizable knowledge. The term encompasses basic and applied research and product development, as well as research training activities.

Research Integrity Officer (RIO). A person identified by the Vice President for Research to have primary responsibility for assuring adherence to the procedures set forth in this document and campus procedures adopted to implement it. On the Bloomington campus, the Associate Dean for Research shall serve as the Research Integrity Officer. References to the Research Integrity Officer include the RIO and his or her designee.

Research Misconduct. Indiana University defines Research Misconduct as provided in the regulations promulgated by the Public Health Service and the National Science Foundation:

Fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the research community for proposing, conducting, or reporting research. Included is retaliation of any kind against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith. It does not include honest error or honest differences in interpretations or judgments of data.

The existence of bad faith motivation shall be determined by the Inquiry or Investigation Committees and, if found, may be subject to sanctions. A claim that one was not aware that an action was a serious deviation from the accepted ethical standards in scholarship is not a mitigating factor to any determination of Research Misconduct.

In interpreting this definition, we are guided by the following standards, which both elaborate on the terms used in the above definition and provide some examples of what is included. The term "Research Misconduct" thus includes but is not limited to:

1. Falsification, fabrication, or misrepresentation. Dishonesty in reporting research, including (a) reporting experiments, measurements, or statistical analyses never performed; (b) manipulating or altering data or other manifestations of the research to achieve a desired result; (c) intentionally falsifying or misrepresenting background information, including biographical data, citation of publications, or status of manuscripts; and (d) selective reporting, including the deliberate suppression of conflicting or unwanted data.
2. Misappropriation. Unacknowledged appropriation of the work of others, including plagiarism, abuse of confidentiality with respect to unpublished materials, misappropriation of physical materials, or other misappropriation of intellectual property.

- a. Plagiarism shall be understood to mean the presentation of the documented words or ideas of another as one's own, without attribution appropriate for the medium of presentation.
  - b. Abuse of confidentiality includes the use (or release to others) of ideas or preliminary data of others which were given in the expectation of confidentiality, such as those gained from (1) access to privileged information through the opportunity for editorial review of manuscripts submitted to journals; and (2) the opportunity for peer review of proposals being considered for funding by External Entities or by internal committees such as the Human Subjects Committee, the Animal Care and Use Committee, or other committees through which one gains access to privileged research-related information.
  - c. Misappropriation of physical materials. The intentional taking of or imposition of damage to the research-related property of another, including apparatus, reagents, biological materials, writings, data, hardware, software, or any other substance or device used or produced in the conduct of research.
  - d. Other misappropriation of intellectual property includes failure to designate authorship where appropriate.
3. Noncompliance with research regulations. Serious noncompliance with research regulations (including but not limited to those governing the use of biohazardous materials, human subjects, laboratory animals, new drugs, radioactive materials, genetically altered organisms, and safety) after notice of their existence by the University or federal, state, or other appropriate agency.
  4. Failure to report observed Research Misconduct. The failure on the part of any member of the University community who has actual knowledge of activities constituting Research Misconduct to bring such activities to the attention of the University by informing either the Unit Executive, the Research Integrity Officer, or the chair of the Standing Committee on Research Integrity. Included is any effort to cover up major episodes of misconduct. The degree of involvement with the project and the level of responsibility held are key determinants of when the failure to report becomes a sanctionable offense.
  5. Obstruction of Investigations of Research Misconduct. Obstruction of Investigations of Research Misconduct consists of intentionally withholding or destroying evidence in violation of a duty to disclose or preserve; falsifying evidence; subornation or intentionally providing false information; and attempting to intimidate or retaliate against persons who have provided or may provide information or who may provide potential leads to other persons or evidence before, during, or after the commencement of any formal or informal proceeding.
  6. Retaliation. Any adverse action against a person who reports or provides information about suspected or alleged misconduct and who has acted in good faith.

Research Record. Any data, document, computer file, computer diskette, or any other written or non-written account or object that reasonably may be expected to provide evidence or information

regarding the proposed, conducted, or reported research that constitutes the subject of an Allegation of Research Misconduct. 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; printed or electronic correspondence; memoranda of telephone calls; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.

Respondent. The person against whom an Allegation of Research Misconduct is directed, or the person whose actions are the subject of an Inquiry or Investigation.

Retaliation. Any adverse action against a person who reports or provides information about suspected or alleged misconduct and who has acted in good faith.

RIO. See "Research Integrity Officer."

Sponsored Programs. Research, training, and instructional projects involving funds, materials, gifts, or other compensation from External Entities under agreements with the University.

Standing Committee on Research Integrity. A standing committee, appointed by the VPR, to advise the VPR on issues of Research Misconduct. The Standing Committee serves three functions: (1) potential Initiators may consult with the Standing Committee chair to discuss their concerns; (2) the Standing Committee assists the RIO in determining whether an Allegation should proceed to an Inquiry; (3) the Standing Committee maintains the University's Policy on Research Integrity and Procedures for Responding to Allegations of Research Misconduct for the Bloomington campus.

Unit Executive. Dean, chair, or director of the unit in which the alleged misconduct occurred.

VPR. The Vice President for Research.

## **CONFIDENTIALITY**

Institutional activities engaged in pursuant to this policy shall be conducted in such a way as to protect the privacy and confidentiality of Initiators and Respondents to the extent possible consistent with protecting the public health and safety and with carrying out the Inquiry or Investigation. If the Initiator requests anonymity, the University will strive to honor the request within the limits set by considerations of due process, by applicable policies and regulations, and by federal, state, and local law.

## **RESTORING REPUTATIONS**

The University will make diligent efforts, as appropriate, to restore the reputations of persons

alleged to have engaged in Research Misconduct when Allegations are not confirmed.

## RETALIATION

The University will make diligent efforts to protect the positions and reputations of those persons who, in good faith, make Allegations and those who cooperate with an Inquiry or Investigation into an Allegation of Research Misconduct.<sup>4</sup> Instances of apparent retaliation will be reviewed by the VPR for appropriate action; appropriate preventative measures may be instituted.<sup>5</sup>

## ROLE OF COUNSEL

The University (including the RIO, Unit Executive, Standing Committee, VPR, or others acting on the University's behalf in the investigatory process) may consult with the University Counsel on procedural matters at any stage of the proceedings. The Respondent may be accompanied by counsel of his or her choice when interviewed in the course of these proceedings. Respondent's counsel may provide the Respondent advice, but may not participate in the proceedings.

## CONFLICT OF INTEREST

No decision maker in the process may have a Conflict of Interest that might compromise his or her objectivity. A conflict exists when: (1) a decision maker has a close personal or professional relationship with the Respondent or Initiator [e.g., current or former students or mentor, direct supervisory or subordinate relationship (other than as Unit Executive-unit member), direct collaborator within the past seven years]; (2) a decision maker has or has had professional differences of opinion with any of the involved individuals that might reasonably be expected to affect objectivity in considering the case; (3) a decision maker has financial ties to the involved individual(s); or (4) there are any other reasons that might affect his or her ability to provide an objective review of the Allegations. The Initiator, Respondent, or any other participant in the process may raise objections on the basis of Conflict of Interest.

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<sup>4</sup> 42 CFR 50.103(d)(13).

<sup>5</sup> In the absence of specific procedures for protecting persons from retaliation, the University will look to government guidelines developed for this purpose. (See, e.g., Commission on Research Integrity, *Integrity and Misconduct in Research: Report of the Commission on Research Integrity*, Recommendation 7: "Responsible Whistleblowing: A Whistleblower's Bill of Rights," pp. 36-38 (1995); Office of Research Integrity, Department of Health and Human Services, "ORI Guidelines for Institutions and Whistleblowers: Responding to Possible Retaliation Against Whistleblowers in Extramural Research" (November 1995), reprinted as Appendix F to *ORI Handbook for Institutional Research Integrity Officers* (February 1997).)

## PROCEDURES

### 1. Rights and Responsibilities

- a. Research Integrity Officer. The RIO will have primary responsibility for assuring adherence to the procedures set forth in this document. The RIO is responsible for assessing Allegations of Research Misconduct, determining when such Allegations warrant Inquiries, and for overseeing Inquiries and Investigations. The RIO will assist Inquiry and Investigation Committees, and will also assist members of the University community in complying with these procedures and with relevant standards imposed by government or other External Entities. The RIO will ensure that all reporting requirements are met.<sup>6</sup> The RIO is responsible for maintaining files of all documents and evidence and for the confidentiality and security of the files. The responsibilities assigned to the RIO shall not be deemed to constitute rights of the Respondent or Initiator.
- b. Initiator. The Initiator shall have an opportunity to be interviewed by the Inquiry and Investigation Committees, to review portions of the Inquiry and Investigation reports pertinent to those interviews, to be informed of the results of the Inquiry and Investigation, and to be protected, to the extent possible, from retaliation.

The Initiator is responsible for making Allegations in good faith, maintaining confidentiality, and cooperating with any Inquiry or Investigation conducted as a result of information he or she has brought to the attention of the University.

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<sup>6</sup> For example, NSF requires that it be notified immediately "if an initial inquiry supports a formal investigation," and that it be kept informed during the investigation. NSF further requires that it be notified "even before deciding to initiate an investigation or as required during an investigation

- i. if the seriousness of apparent misconduct warrants;
- ii. if immediate health hazards are involved;
- iii. if NSF's resources, reputation, or other interests need protecting;
- iv. if Federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected; or
- v. if the scientific community or the public should be informed" (45 CFR 689.3).

Similarly, PHS requires that it be notified in writing when the institution determines that an investigation is warranted, and further requires notification whenever "any of the following conditions exist:

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. there is a reasonable indication of possible criminal violation. In that instance the institution must [notify PHS] within 24 hours of obtaining that information" (42 CFR 50.103, 50.104).

The notification of a decision to initiate an Investigation "should include the name of the person(s) against whom the allegations have been made, the general nature of the allegation, and the PHS application or grant number(s) involved" (42 CFR 50.104).

- c. Respondent. When an Inquiry is initiated, the Respondent shall be informed, in writing, of the Allegations and shall be notified in writing of the final determinations and resulting actions. The Respondent shall also have the opportunity to be interviewed by, and present evidence to, the Inquiry and Investigation Committees, to review the Inquiry and Investigation reports, and to have the advice of counsel. If the Respondent wishes to have an advisor (either legal counsel or another individual) present during those parts of the Inquiry or Investigation at which the Respondent is entitled or requested to attend, notice of the advisor's attendance shall be submitted to the Committee at least 48 hours prior to the interview. Where the Respondent will be accompanied by legal counsel during an Investigation, the Respondent shall so notify the Investigation Committee no fewer than ten working days prior to the session at which the Respondent's legal counsel will be attending. Advisors, whether legal counsel or another individual, may observe and provide advice to the Respondent, but may not participate in the proceedings. The Respondent may provide written comments on the Inquiry and Investigation reports, which shall become a part of the record. If the Respondent is not found to have engaged in Research Misconduct, the University shall act to assist the Respondent in restoring his or her reputation.

The Respondent is responsible for maintaining confidentiality and for cooperating with the conduct of an Inquiry or Investigation. The Respondent shall refrain from retaliating against Initiators who raise Allegations in good faith or against other persons who cooperate in Inquiries and Investigations.

- d. Vice President for Research (VPR). The VPR is responsible for implementation and oversight of these procedures. The VPR retains final decision making authority over all actions related to these procedures.

The VPR will appoint the Standing Committee on Research Integrity, Inquiry Committees, and Investigation Committees. The VPR will 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 VPR will also ensure that interim administrative actions are taken, as appropriate, to ensure compliance with all relevant government regulations.

The VPR will receive the Inquiry report and written comments of the Respondent, if any are made. The VPR will decide whether the findings from the Inquiry provide sufficient evidence of possible Research Misconduct to justify conducting an Investigation.

The VPR will receive the Investigation report and written comments of the Respondent, if any are made. The VPR will decide whether Research Misconduct occurred. The VPR may also impose or recommend to the appropriate disciplinary body the imposition of sanctions and/or take other administrative actions, as necessary or appropriate.

- e. Members of the University Community. All members of the University community shall cooperate with the Inquiry and Investigation Committees and

provide relevant evidence in the course of Research Misconduct proceedings.

## **2. Standards of Review; Provision of Documents**

- a. An Investigation is warranted if, through the conduct of an Inquiry, the University determines that there is substance to an Allegation of Research Misconduct.
- b. An Investigation shall conclude that Research Misconduct has occurred where such a finding is supported by a preponderance of the evidence.
- c. The Inquiry and Investigation Committees shall have the authority, through the VPR, to require submission to the Committee any documents or materials it deems necessary to the conduct of the Inquiry or Investigation.

## **3. Interim Action; Preservation of Evidence**

At any time after an Allegation of Research Misconduct has been made and before final disposition of the case, the RIO or the Unit Executive, with the approval of the VPR, may take interim administrative actions required to protect the health and safety of research subjects or patients, to protect the interests of students and colleagues, to preserve evidence, or to protect resources. Any interim action should be devised and taken so as to create minimal interference with the regular activities of the Respondent and others, and in accordance with University policy. If any criminal activities are discovered during a research integrity Inquiry or Investigation, the University Counsel shall be notified; however, the Inquiry or Investigation should not be suspended.

## **4. Initiation of the Process**

Allegations of Research Misconduct may be raised in several ways, as set forth below.

### **a. Initiating Notification**

Initiators shall report and provide all relevant information or evidence of Research Misconduct to (i) the Unit Executive of the unit in which the person alleged to have committed the unethical research practice (the Respondent) holds principal appointment; or (ii) the RIO; or (iii) the chair of the Standing Committee on Research Integrity. Where information regarding possible Research Misconduct is reported to the Unit Executive or the chair of the Standing Committee on Research Integrity, the Unit Executive or Standing Committee chair shall notify the RIO promptly. If an Allegation of Research Misconduct involving a person affiliated with the University originates outside the University, it shall be channeled to and through the RIO.

Prior to submitting a formal Allegation a potential Initiator is encouraged to consult informally with the RIO, the Unit Executive, or the Standing Committee chair. The "advisor" is to keep such consultations in confidence; the confidential nature of the consultation is to be discussed by all parties at this stage. The potential Initiator should also be advised of the limits of confidentiality. Specifically, the

Initiator's identification will normally become known during the Investigation stage. It may, however, be possible to maintain confidentiality even through the Investigation, when confidentiality has been requested, in cases in which there is credible evidence apart from the Initiator's written Allegation and that does not require the Initiator's testimony (e.g., most allegations of plagiarism). The purpose of the consultation is to provide advice to the potential Initiator. The consultation shall help distinguish whether the case involves questions of Research Misconduct, is to be resolved by other deliberative or mediation procedures, or does not warrant further action.

If the potential Initiator consults with an administrator (RIO, Unit Executive, Standing Committee chair), the administrator will inform the potential Initiator of the need to file written Allegations if he or she wishes the matter to go forward. The potential Initiator shall also be told that the administrator may file written Allegations even if the potential Initiator decides not to submit them, if the administrator believes there may be sufficient cause and evidence to warrant an Inquiry. The potential Initiator will also be informed of his or her obligation to cooperate in any Inquiry or Investigation that may take place.

The VPR, RIO, Unit Executive, and Standing Committee chair shall each consider and act upon any credible information which comes to his or her attention indicating that Research Misconduct may have occurred, regardless of whether or not the matter involves an Initiator. Where there is no Initiator, the VPR, Unit Executive, or Standing Committee chair shall reduce the concern to a written Allegation, which he or she shall submit to the RIO for his or her determination whether the matter should proceed to an Inquiry (see section 4c, below). Where such information comes to the attention of the RIO, the RIO shall reduce the concern to a written Allegation for consideration under section 4c. The administrator submitting an Allegation under these circumstances shall be considered the Initiator for the purposes of these procedures.

**b. Submission of Formal Allegation**

All formal Allegations must be in writing and shall be made in one of the following ways:

- i. The Initiator may consult with the RIO, Unit Executive, or Standing Committee chair as provided in section 4a, above. In this case, the Initiator may submit an Allegation within 14 calendar days after seeking such advice. Initiators may submit Allegations to either the RIO, the Unit Executive, or the Standing Committee chair. Allegations received by the Unit Executive or Standing Committee chair shall be forwarded to the RIO. If the Initiator does not file a written Allegation within the allotted time, the matter will be dropped unless further conditions are met, as provided in section 4b, paragraph 3, below. Where no written Allegation is filed by either the potential Initiator, the RIO, the Unit Executive, or the Standing Committee chair, the Initiator shall be notified that the matter has been dropped and that no investigative activities will take place.

- ii. An Initiator wishing to raise an Allegation of Research Misconduct may submit a written Allegation to either the RIO, the Unit Executive, or the Standing Committee chair without having first consulted with the RIO, Unit Executive, or Standing Committee chair. If it is received by the Unit Executive or Standing Committee chair, it shall be forwarded to the RIO.
- iii. If the Initiator does not file a written Allegation within 14 calendar days of consulting with the RIO, Unit Executive, or Standing Committee chair, the matter will be dropped unless the following condition is met: If the RIO, Unit Executive, or Standing Committee chair determines that there may be sufficient cause and evidence to warrant an Inquiry, then he or she shall submit a written Allegation. Allegations by the Unit Executive or Standing Committee chair are to be submitted to the RIO. The RIO, in consultation with the Standing Committee, will make a final determination whether the matter should proceed to an Inquiry. If neither the Initiator, RIO, Unit Executive, nor Standing Committee chair files an Allegation, no investigative activities regarding the concerns expressed by the Initiator shall take place. The Initiator shall be notified that the matter has been dropped and that no investigative activities will take place.

**c. Receipt of Formal Allegation**

On receipt of a written Allegation of Research Misconduct, the RIO shall, in consultation with the Standing Committee, determine whether the Allegation is frivolous, does not raise questions of Research Misconduct (as herein defined), is more appropriately resolved by other deliberative or mediation procedures, or does not warrant further action. In such a case, the RIO may, at his or her discretion, handle the matter informally or refer it to the appropriate person or process. The RIO may, at his or her discretion, discuss the Allegation with the Initiator, the Respondent, and/or Unit Executive prior to making this determination, and may also gather further information from other sources, as necessary. The RIO shall notify the VPR of receipt of the Allegation and of the action taken.

**d. Disposition of the Case**

If the Allegation does not raise questions of Research Misconduct, does not warrant further action, is determined to be frivolous, or is determined to be more appropriately resolved by other deliberative or mediation procedures, the Initiator and anyone else known to be aware of the Allegation will be so notified. If the Allegation is determined to be nonfrivolous or is not more appropriately resolved by other deliberative or mediation procedures, an Inquiry shall be initiated. The RIO, in consultation with the Standing Committee, shall identify clearly and in writing the Allegation and any related issues that should be evaluated in the Inquiry.

## **5. The Inquiry**

The purpose of an Inquiry is to determine whether there is sufficient credible evidence of possible Research Misconduct to warrant conducting an Investigation.

### **a. Appointment of Inquiry Committee**

The Inquiry shall be carried out by a committee of no fewer than three persons appointed by the VPR. The VPR shall appoint the Inquiry Committee within ten working days of the determination that an Inquiry should be initiated. Members of the committee shall have no real or apparent Conflicts of Interest with the Respondent or with the case in question, shall be unbiased, and shall, together, possess sufficient expertise to enable the Committee to conduct the Inquiry and to evaluate the evidence and issues related to the Allegation. Appointees are expected to notify the VPR of any known Conflict of Interest or of an inability to render unbiased judgment. Wherever feasible, one member of the Inquiry Committee shall be from the unit in which the Respondent holds primary appointment and one member shall be a faculty member from elsewhere in the University. One member of the Inquiry Committee must be a member of the Standing Committee. Where necessary (e.g., to obtain appropriate expertise), the VPR may appoint an individual from outside the University. Any exception to the designated composition of the Inquiry Committee shall be made only for good cause and shall be documented in the Inquiry report. The VPR shall designate a chair, who shall be a University appointee who is not from the unit in which the Respondent holds primary appointment.

### **b. Notification of Initiation of Inquiry**

Where feasible, the RIO shall review with the Initiator the details of the Allegation and related issues and describe the process that will be followed. The RIO shall then notify the Initiator in writing of the initiation of the Inquiry, including a statement of the Allegations and related issues that will be the subject of the Inquiry and the membership of the Inquiry Committee. The RIO shall include with the notification a copy of this document and an explanation of the Initiator's rights and responsibilities under these procedures. The RIO shall explain that while every attempt will be made to maintain anonymity through the Inquiry phase of the process (if requested by the Initiator), the Initiator's identity in most instances will be made known to the Respondent if an Investigation ensues.

Upon initiation of the Inquiry, the RIO shall meet with the Respondent to present the Respondent with written notification of the Allegations and related issues and the membership of the Inquiry Committee; review the contents of the notification (i.e., the Allegation); describe the process that will be followed; and take possession of or otherwise secure pertinent Research Records or other research materials. The RIO shall also obtain an initial explanation from the Respondent, if the Respondent so desires. All other discussion of the substantive particulars of the case shall take place within the context of the Inquiry itself. The RIO shall include with the notification a copy of this document and an explanation of the Respondent's rights

and responsibilities under these procedures, and also of his or her right to submit a written response to the Allegation. The RIO shall remind the Respondent of his or her obligation to cooperate with the investigative process and to provide all relevant materials and information. Refusal to do so or other uncooperative behavior may result in an immediate recommendation that an Investigation is justified.

The Unit Executive shall be notified of the initiation of any Inquiry.

**c. Objections to Committee Membership**

The notifications shall state that the Respondent and/or Initiator may object, in writing, to any of the proposed appointees on the grounds that the person does not meet the criteria stated above. Any objections shall be submitted to the RIO within five working days of receipt of the notification. The VPR shall consider the objection, and if it is reasonable, the VPR shall replace the person with one who meets the stated criteria. The VPR's decision as to whether the challenge is reasonable shall be final.

**d. Confidentiality**

All individuals involved with the case (Unit Executive, Standing Committee members, Inquiry Committee members, Initiator, Respondent, persons contacted or interviewed) shall be reminded that they are responsible for maintaining the confidentiality of the case.

**e. Charge to the Inquiry Committee**

The RIO shall convene the first meeting of the Inquiry Committee, review the Allegations, and describe appropriate procedures for conducting an Inquiry. The Inquiry Committee may consult with RIO or the Standing Committee as necessary during the course of the Inquiry.

If issues of Research Misconduct that fall outside of the charge to the Inquiry Committee arise during the course of the Inquiry, the Inquiry Committee shall so inform the RIO, including in its communication the evidence on which its concerns are based. The RIO, in consultation with the Standing Committee and the Unit Executive, will consider the issues raised and, if warranted, amend the Allegations accordingly. The Respondent and Initiator shall receive appropriate notification of any such amendments.

**f. Interviews**

Whenever possible, interviews should be conducted with all individuals involved either in making the Allegation or against whom the Allegation is made. The Inquiry Committee may interview others and examine relevant Research Records and materials, as necessary to its determination whether there is sufficient credible evidence of Research Misconduct to warrant conducting an Investigation.

**g. Agreed Statement of Facts**

If the Respondent in written response agrees with the facts alleged, that may be the basis for a decision whether there should be an Investigation in lieu of continuation of the Inquiry. The Agreed Statement of Facts may obviate the need for further information gathering, thereby foreshortening the Inquiry process. As such, it may, where appropriate, serve as a basis for the Inquiry Report.

**h. Provision of Documents**

The Inquiry Committee shall have the authority to require submission to the Committee of any documents or materials it deems necessary to the conduct of the Inquiry.

**i. Timing**

The Inquiry (including the VPR's determination whether an Investigation should be initiated) shall be completed within 60 calendar days after its initiation.<sup>7</sup> Extensions of time must be approved by the VPR and the reason therefor must be documented in the Inquiry report. The Respondent shall be notified of any extensions of time. Commencement of the Inquiry is defined as the first meeting of the Inquiry Committee convened by the RIO.

**j. The Inquiry Report**

The Inquiry Committee shall document its findings in a report that states the Allegations, summarizes relevant interviews, and states the conclusions reached and the evidence on which it reached those conclusions. Where it finds that an Investigation is not warranted, the report and other retained documentation must be sufficiently detailed as to permit a later assessment of the reasons for the recommendation not to conduct an Investigation. The Inquiry report may be drafted with the assistance of the RIO. If the report recommends that an Investigation be conducted, it shall propose the subject matter to be included in the Investigation.

The draft Inquiry report shall be distributed to the Respondent, Standing Committee, and the RIO; a summary thereof or relevant portions (i.e., those portions that address the Initiator's role and opinions in the Inquiry) shall be made available to the Initiator for review, if the Initiator is identifiable. The RIO may establish reasonable conditions for review to protect the confidentiality of the draft report. The Initiator and Respondent may submit written comments regarding the facts and findings to the RIO within 14 calendar days, which will be made a part of the final Inquiry record. Based on any comments received, the Inquiry Committee

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<sup>7</sup> Allowable time frames for conducting Inquiries are also set by various governmental agencies. Inquiries involving research funded by PHS must be completed within 60 days unless circumstances clearly warrant a longer period (42 CFR 50.103). Inquiries involving research funded by NSF must be completed within 90 days; NSF may require periodic progress reports if completion of the Inquiry is delayed (45 CFR 689.3).

may revise the report, as the Committee deems appropriate.

The final Inquiry report, together with the Respondent's and Initiator's comments, if any, shall be forwarded to the VPR for action.

## **6. Disposition of the Case Following an Inquiry**

Within ten working days of receipt of the Inquiry report and the Respondent's and Initiator's comments, if any, the VPR shall decide whether the findings from the Inquiry provide sufficient evidence of possible Research Misconduct to justify conducting an Investigation. If the VPR's decision varies from the conclusion reached by the Inquiry Committee, the VPR shall prepare a report explaining in detail the basis for his or her decision. The report shall document the VPR's findings, stating the conclusions reached and the evidence on which the VPR reached those conclusions.

Where the VPR's decision is at variance with the Inquiry Committee's decision whether an Investigation is warranted, the VPR shall notify the Respondent, the Initiator, the Inquiry Committee, and the Standing Committee of the decision within the specified ten-day period. The report documenting the reasons for the variant decision shall be distributed to the Respondent, the Standing Committee, the Inquiry Committee, and the RIO; a summary thereof or relevant portions (i.e., those portions that address the Initiator's role and opinions in the Inquiry) shall be made available to the Initiator for review, if the Initiator is identifiable. The RIO may establish reasonable conditions for review to protect the confidentiality of the report. The report will be distributed within ten working days following notification of the VPR's variant decision.

If the VPR decides that the matter is not to be pursued further, the RIO will act to ensure that all reference to the matter is expunged from the Respondent's personnel file. A single copy of the records from the case sufficient to permit a later assessment of the reasons for the decision not to conduct an Investigation shall be maintained in a secure manner by the Office of the VPR for a period of three years after the termination of the Inquiry. Anyone known to have knowledge of the Inquiry (including the Respondent, the Initiator, the Unit Executive, the Standing Committee, and all persons who have been interviewed or otherwise informed of the Allegations) shall be informed that the matter has been dropped. The VPR shall take any other action which the VPR deems necessary to restore the Respondent's reputation. The VPR may also take administrative action, as necessary or appropriate.

## **7. The Investigation**

The purpose of an Investigation is to determine whether the alleged Research Misconduct occurred and, if so, to recommend appropriate sanctions.

### **a. Notification of Initiation of Investigation**

The RIO will notify the Respondent and the Initiator in writing that an Investigation will take place and remind them of their obligation to cooperate in the conduct of the Investigation. The RIO will also notify external funding agencies and

appropriate governmental offices, in the manner and to the extent required by law.<sup>8</sup> The RIO shall immediately secure any additional pertinent Research Records or materials that were not previously sequestered during the Inquiry.

**b. Timing of Commencement of Investigation**

The Investigation shall commence within 30 calendar days of the completion of the Inquiry.<sup>9</sup>

**c. Timing of Completion of Investigation**

The Investigation should ordinarily be completed within 120 calendar days of its initiation.<sup>10</sup> This includes conducting the Investigation, preparing the report of findings, making that report available for comment by the Respondent and the Initiator and, if required, submitting the report to governmental funding sources. Extensions of time must be approved by the VPR and the reason therefor must be documented in the Investigation report. The Respondent shall be notified of any extensions of time.

**d. Investigation Process**

The Investigation may be conducted through private interviews or, at the option of either the Investigation Committee or the Respondent, at a hearing at which the Initiator and Respondent shall both be invited to be present. Requests for hearings shall be made in writing within seven calendar days of receipt of the notice of the Investigation.

**i. Appointment of Investigation Committee.**

The Investigation shall be conducted by an Investigation Committee of no fewer than five persons appointed by the VPR, whose appointments to the Committee shall be subject to final approval by the campus Chancellor. The VPR/Chancellor shall appoint the Investigation Committee within 30 working days of the completion of the Inquiry. Members of the

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<sup>8</sup> See note 4.

<sup>9</sup> Completion of the Inquiry is defined as the date on which the VPR's decision is rendered. Where the VPR's decision varies from the recommendation of the Inquiry Committee, the completion date shall be the date on which the report documenting the variant decision is distributed to the Respondent. Commencement of the Investigation is defined as the first meeting of the Investigation Committee.

<sup>10</sup> Any regulatory requirements regarding time limitations must be met. For example, PHS requires that the Investigation be completed (i.e., submission of the Investigation report to ORI) within 120 days (42 CFR 50.104(a)(5)). This means that the Respondent's and Initiator's comments must be received and a final decision reached by the VPR within the 120 day limit. Any extensions must be requested in writing, and, if granted, interim progress reports must be filed (42 CFR 50.104(a)(5)). Initiation of the Investigation is defined as the first meeting of the Investigation Committee.

NSF requires that Investigations be completed within 180 days, and, in the event of a delay, may require progress reports (45 CFR 689.3).

Investigation Committee shall have no real or apparent Conflicts of Interest with the Respondent or the case in question, shall be unbiased, and shall have the necessary expertise to enable them to evaluate authoritatively the relevant evidence of the alleged Research Misconduct and to conduct an Investigation. Committee members must have been uninvolved in the prior processes and must have no intimate knowledge of the case. Appointees are expected to notify the VPR of any known Conflict of Interest or of an inability to render unbiased judgment. At least one member of the Committee shall be a peer of the Respondent from outside the University. The VPR shall designate a chair of the committee, who shall be a tenured member of the University faculty who is not from the unit in which the Respondent holds primary appointment. Where the Respondent is a member of the faculty, all appointees to the Investigation Committee shall be tenured faculty from this or another university.

**ii. Notification of Appointment of Investigation Committee**

The Respondent and Initiator (if the Initiator's identity is known) shall be notified of the Committee membership and shall be given an opportunity to object to the Committee membership on the grounds that one or more members do not meet the above-stated criteria. Objections shall be made in writing to the VPR within five working days of notification of the Committee's membership. The VPR shall consider the objection, and if it is reasonable, the VPR shall replace the person with one who meets the stated criteria. The VPR's decision as to whether the challenge is reasonable shall be final, subject only, as above, to confirmation by the campus Chancellor.

**iii. Charge to Investigation Committee; Standard of Review**

The VPR shall provide the Investigation Committee with a written charge of the subject matter to be considered in the Investigation. The charge will state that the Committee is to evaluate the evidence provided by the Respondent, the Initiator, and others to determine whether, based on a preponderance of the evidence, Research Misconduct occurred and, if so, to what extent, who was responsible, and its seriousness.

If issues of Research Misconduct that fall outside of the charge arise during the course of the Investigation, the Committee shall so inform the VPR, including in its communication the evidence on which its concerns are based. The VPR, in consultation with the RIO and the Investigation Committee, will consider the issues raised and, in the VPR's discretion, provide the Investigation Committee with an amended charge. The Respondent shall be notified of any such amendments.

A recommendation by the Committee shall consist of its principal findings and conclusions concerning whether, based on a preponderance of the evidence, Research Misconduct occurred and, if so, to what extent, who was

responsible, and its seriousness. When called for, the Committee shall also make recommendations of procedures to be undertaken by the appropriate administrators to achieve appropriate remedies.

**iv. Due Process**

In all of its proceedings the Investigation Committee shall be governed by principles of due process and orderly procedures for ensuring the impartial examination by the Committee of all pertinent facts, University policies and procedures, and the legitimate interests of all parties involved.

**v. University Representation at Hearings**

The chair of the Inquiry Committee shall represent the University at Investigation hearings.

**vi. Collection of Information During the Investigation**

The Respondent shall have the right to be interviewed by the Investigation Committee and accompanied by legal counsel or other advisor of his or her choice; shall be permitted to identify persons who might have material information about the Allegation, each of whom shall be interviewed by the Committee; to identify other relevant evidence, which shall be reviewed by the Committee; where the Respondent has requested a hearing, to hear all interviewees; to raise questions for the Investigation Committee to pose to each interviewee about the information provided by that interviewee and the Allegation of Research Misconduct; and to respond to all written evidence.

The Committee shall interview the Initiator, if available, and shall review all pertinent documentary evidence. Before and during the Investigation the Committee may request and secure further information in writing from the Respondent which it thinks to be pertinent to the case. The Committee may also request that persons not identified by the Respondent provide information pertinent to the case either through interviews or in statements prepared for the Committee. These statements, if they are not presented during a hearing, shall be made available to the Respondent. The Respondent may request that a hearing be reconvened in order to add or to respond to such newly solicited material and information. The decision made by the Committee and any subsequent decision by University administrators shall be made only on the basis of evidence presented during the Investigation or solicited by the Investigation Committee and to which the Respondent has had the opportunity to respond. The Respondent may submit a written statement at the close of a hearing.

**vii. Initiator's Confidentiality**

If an Initiator who has requested that his or her identity be kept confidential

declines to appear to be interviewed at a hearing, the Investigation may nevertheless go forward, if the Investigation Committee determines that there is credible evidence of possible Research Misconduct apart from the Initiator's statements regarding the Allegation of Research Misconduct, and that such evidence is sufficient to justify proceeding with the Investigation.

**viii. Open vs. Closed Hearings**

Hearings will be closed to the public unless both the Respondent and the VPR agree to have the hearing open to the public. Requests to have an open hearing shall be made to the chair of the Investigation Committee in writing no later than ten working days prior to the date set for the hearing.

**ix. Record of Interviews; Transcripts**

An audio tape recording of Investigation interviews shall be made and transcribed. A copy of the transcript shall be provided to each interviewee for his or her review to identify errors in transcription. The transcript and changes requested by the interviewee shall together constitute the record of the interview. The original record shall be kept on file in the Office of the Vice President for Research. The audio tape shall be maintained until the case is closed, and shall be destroyed in the same manner and under the same conditions as the rest of the record of the case (see section 13, below).

**x. Contents of Notification to Respondent in Case of Hearing**

The Investigation Committee chair shall notify the Respondent concerning the following regarding hearings:

- a. The date, time, and place of an Investigation hearing, which shall not be earlier than 15 working days after the date of the notice;
- b. That the Respondent is required to provide to the Committee chair the names of all persons he or she wishes to have interviewed or whose statements may be offered as evidence no later than seven working days prior to the date of the hearing;
- c. That the Committee chair will provide the Respondent with the names of all additional interviewees who will give evidence at the hearing and will make available to the Respondent any statements or other material that will be presented during the hearing no later than five working days prior to the date of the hearing;
- d. That the Respondent is entitled to raise questions for the Investigation Committee to pose to each interviewee about the information provided by that interviewee and about the Allegation;
- e. That the Respondent is entitled to be accompanied at the hearing by counsel or an advisor of his or her choice and at his or her expense,

who may provide the Respondent advice but may not participate in the proceedings;

- f. That the Respondent shall notify the Committee no fewer than ten working days prior to the hearing of his or her intention to be accompanied by legal counsel.
- g. That the hearing will be closed to the public unless both the Respondent and the VPR agree to have the hearing open to the public and that requests to have an open hearing must be made to the chair of the Investigation Committee in writing no later than ten working days prior to the date set for the hearing; and
- h. That the Respondent may attend the presentation of evidence at the hearing, but not the Committee's deliberations.

**xi. Committee Recommendation: timing, contents of report**

The Investigation Committee shall render a written recommendation within 15 working days of completion of a hearing.<sup>11</sup> Whether or not there was a hearing, the Committee shall document its findings in a report that specifies the Allegations, summarizes relevant information provided by persons interviewed by the Committee, and states the conclusions reached and the evidence on which it reached those conclusions. It should make explicit findings of fact with respect to each Allegation and list the evidence relevant to that finding. The decision should then state the Committee's recommended conclusion as to whether any proven Allegation constitutes Research Misconduct. The report and other retained documentation must be sufficiently detailed as to permit a later assessment of the Investigation.

**xii. Review of Committee Report by Respondent and Initiator**

On its completion, the Committee's report shall be forwarded to the Respondent. A summary of the report or relevant portions thereof (i.e., those portions that address the Initiator's role and opinions in the Investigation) shall be made available to the Initiator for review, if the Initiator is identifiable. The VPR may establish reasonable conditions for review to protect the confidentiality of the report. The Respondent and Initiator may submit written comments regarding the facts and findings to the Committee chair within 15 working days, which will be made a part of the final Investigation record. The Committee's report, together with the Respondent's and Initiator's comments, if any, shall then be forwarded to the VPR.

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<sup>11</sup> A hearing is considered to have been completed after all interviewees have been interviewed and have had an opportunity to review and correct transcripts of their interviews, and after the Respondent has had an opportunity to respond to all of the evidence presented.

**xiii. Factual Findings are Conclusive**

The factual findings of the Investigation Committee shall be conclusive and binding on any later proceeding convened for other purposes (e.g., grievances to the Faculty Board of Review relating to sanctions imposed).

**8. Disposition of the Case Following an Investigation**

Within ten working days of receipt of the Investigation report, the VPR shall decide what action to take or recommend.

**a. Concurrence with the Committee. No Misconduct: decision, notification, restoration of Respondent's reputation**

If the VPR concurs with an Investigation Committee's recommendation that the Allegations have not been proven by a preponderance of the evidence, the RIO will act to ensure that all reference to the matter is expunged from the Respondent's personnel file. The RIO shall inform anyone known to have knowledge of the Investigation (including the Respondent, the Initiator, the Unit Executive, the Standing Committee, the Inquiry and Investigation Committees, and all persons who have been interviewed or otherwise informed of the Allegations) that the matter has been dropped. The VPR shall take any other action which the VPR deems necessary to restore the Respondent's reputation.

**b. Concurrence with the Committee. Misconduct: decision, notification**

If the VPR concurs with an Investigation Committee's recommendation that Research Misconduct has been proven by a preponderance of the evidence, the Respondent shall be notified in writing of the VPR's decision. Anyone else known to have knowledge of the Investigation (including the Initiator, the Unit Executive, the Standing Committee, the Inquiry and Investigation Committees, and all persons who have been interviewed or otherwise informed of the Allegations) shall also be informed of its outcome. If the VPR determines that a sanction should be imposed, the VPR shall either take such action as is within the VPR's authority or make recommendations for action to the appropriate person or decision making body, as prescribed by University policy. Whether or not sanctions are imposed, the VPR may prescribe corrective action responsive to the misconduct and take any other appropriate action. The VPR shall notify the Unit Executive and the Standing Committee of any sanctions imposed or other actions taken or recommended. The VPR's findings shall be conclusive and binding on any later proceeding convened for other purposes (e.g., grievances to the Faculty Board of Review relating to sanctions imposed).

**c. VPR's Decision at Variance With Committee's Recommendation**

If, on review of the Investigation report, the VPR disagrees with the Investigation Committee's recommendation, the VPR shall prepare a report explaining in detail the basis for his or her concerns. The basis of the VPR's concerns may be procedural or substantive. The VPR shall provide the Investigation Committee

with the statement of concerns and the Committee shall have ten working days in which to address them. The Committee may, for example, gather additional evidence, deliberate further in light of the concerns raised by the VPR, or correct the procedural problem(s) identified by the VPR. The Committee may request and obtain from the VPR extensions of time, as may be reasonably necessary for addressing the issues. The Investigation Committee shall provide the VPR an amended Investigation report in response to the statement of concerns. The Respondent shall be provided a copy of the amended Investigation report, together with the VPR's statement of concerns, and shall be given an opportunity to respond to the amended report or VPR's statement of concerns within ten working days. A summary of the amended report and VPR's statement of concerns, or relevant portions thereof (i.e., those portions that address the Initiator's role and opinions in the Investigation), shall be made available to the Initiator for review, if the Initiator is identifiable, and the Initiator shall be given an opportunity to comment on the amended report within ten working days. Responses/comments shall be made in writing to the VPR, who shall provide a copy to the Investigation Committee.

If the VPR concurs with the recommendation in the amended Investigation report, the procedures specified in sections 8a and 8b shall be followed. If the VPR's decision varies from the recommendation made by the Investigation Committee in the amended report, the VPR shall prepare a report explaining in detail the basis for his or her decision. The report shall document the VPR's findings, stating the conclusions reached and the evidence on which the VPR reached those conclusions. The report should make explicit findings of fact with respect to each Allegation included in the charge to the Investigation Committee and list the evidence relevant to that finding. The VPR's decision shall be based solely on evidence elicited in the Investigation and to which the Respondent has had the opportunity to respond. The report should then state the VPR's conclusions as to whether any of the proven Allegations constitutes Research Misconduct. The VPR's findings shall be conclusive and binding on any later proceeding convened for other purposes (e.g., grievances to the Faculty Board of Review relating to sanctions imposed). The Respondent shall be notified in writing of the VPR's decision. Anyone else known to have knowledge of the Investigation (including the Initiator, the Unit Executive, the Standing Committee, the Inquiry and Investigation Committees, and all persons who have been interviewed or otherwise informed of the Allegations) shall also be informed of its outcome.

If the VPR determines that the Respondent engaged in Research Misconduct and that a sanction should be imposed, the VPR shall either take such action as is within the VPR's authority or make recommendations for action to the appropriate person or decision making body, as prescribed by University policy. Whether or not sanctions are imposed, the VPR may prescribe corrective action responsive to the misconduct and take any other appropriate action. The VPR shall notify the Unit Executive and the Standing Committee of any sanctions imposed or other actions taken or recommended.

Where the VPR determines that the Respondent did not engage in Research Misconduct, the VPR shall take any other action which the VPR deems necessary

to restore the Respondent's reputation.

**d. Restoration of Reputation of Initiator and Others**

Upon completion of the Investigation, the VPR shall determine, after consulting with the Initiator, what steps, if any, are needed to restore the position or reputation of the Initiator.<sup>12</sup>

**9. Appeals**

The Respondent may appeal a decision that Research Misconduct has occurred. Appeals may be taken to the review body available to persons in the Respondent's appointment classification for the purpose of hearing employment grievances [e.g., the Bloomington Faculty Board of Review (in the case of academic appointees), the appropriate Graduate School body (where applicable in the case of graduate students), or the processes established by the University Personnel Policies relating to employee conduct (in the case of staff employees)].

**a. Submission of Appeals**

Appeals must be in writing and must be submitted to the appropriate body within 14 calendar days of receipt of notice of the VPR's decision. The Respondent shall submit a copy of the appeal to the VPR.

**b. Subject of Appeals**

Appeals shall be limited to: (1) review of the procedures employed (i.e., claims that the process was flawed in a way that creates a significant risk that the outcome was erroneous); or (2) grievances of sanctions imposed as a result of a finding of Research Misconduct. The appeal must specify the nature of any claimed procedural error. The factual record established during the Investigation shall constitute the factual record for the purposes of the Appeal. The Appeal body may not review the factual finding of misconduct.

**c. Exclusive Process**

Appeals fulfill the University's obligation to provide a grievance process concerning actions of dismissal, academic freedom, reappointment, tenure, promotion, salary, and the nature and conditions of appointees' employment (see, e.g., "Grievance and Review Procedures of the Bloomington Faculty, Bloomington Academic Guide, Document D-XVI). The procedures described in this document constitute the exclusive process for raising and resolving allegations of Research Misconduct. Respondents may not file separate grievances that arise out of findings of Research Misconduct.<sup>13</sup>

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<sup>12</sup> See note 3.

<sup>13</sup> See the section titled "Applicability" for an explanation of the handling of cases whose scope is broader than Research Misconduct.

## **10. Severance of University Relationship**

Severance of the Respondent's relationship with the University, whether by resignation or termination of employment, completion of or withdrawal from studies, or otherwise, before or after initiation of procedures under this policy, will not preclude or terminate Research Misconduct procedures. Ongoing Inquiries and Investigations shall be conducted, and appropriate internal and external notifications of the proceedings and of their outcome will be made.

## **11. Notification to External Entities**

The VPR shall determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which deceptive reports may have been published, collaborators of the Respondent in the work, or other concerned parties, should be notified of the outcome of a case. The RIO will be responsible for compliance with all requirements for notification of External Entities, including funding or sponsoring agencies.<sup>14</sup>

## **12. Malicious Charges**

Where relevant, the Inquiry and the Investigation Committee's reports each will state explicitly whether there was a reasonable basis in fact and honest belief for making charges. An Allegation need not be subsequently verified to have been made in good faith. If either report should determine that the making of the original charges or the information provided by any person was maliciously motivated, that finding shall be communicated to the VPR. The VPR may enter a finding of malicious conduct in the person's personnel file and communicate the finding to the person's Unit Executive. Such a finding may be the basis for disciplinary action or other personnel decisions in accordance with University policy.

## **13. Disposition of File**

After completion of the case and all ensuing related actions, the RIO shall prepare a complete file, including the original records of all proceedings conducted by the Inquiry and Investigation Committees and copies of all documents and other materials furnished to the RIO or to the Inquiry or Investigation Committee. The RIO shall seal the file and retain it for at least three years. Access to the materials in the file shall be available only upon authorization of the VPR for good cause.

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<sup>14</sup> PHS requires that a final report be submitted to the Office for Research Integrity which describes "the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the Investigation, the findings, and the basis for the findings, and includes 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 taken by the institution" (42 CFR 50.104). NSF similarly requires that final Investigation reports be submitted to the agency, and also requires that it be kept informed during Investigations (45 CFR 689.3).

PHS also requires that "if an institution plans to terminate an inquiry or investigation for any reason without completing all relevant requirements under [the regulations], a report of such planned termination, including a description of the reasons for such termination, shall be made to [ORI], which will then decide whether further investigation should be undertaken" (42 CFR 50.104(a)(3)).

The RIO shall return all original documents and materials to the persons who furnished them.

After three years from the completion of the Investigation and all ensuing related actions, if any, the RIO will destroy the file unless the RIO makes a written finding that there is reason to retain it. The finding will state explicitly the reasons why and the period during which the file is to be maintained, and will be entered in the file. The Respondent shall receive either a notice that the file has been destroyed or a copy of the written finding that the file will be retained.

#### **14. Procedural Changes**

Particular circumstances in an individual case may dictate variation from the normal procedures deemed in the best interests of the University. Any change from normal procedures must ensure fair treatment of the Respondent. Any significant deviation from the procedures described in this document shall be made only with the written approval of the VPR.<sup>15</sup>

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<sup>15</sup>We are grateful to the many institutions that shared their research misconduct policies with us for use in developing these procedures. We found several, including those from the University of Illinois, the University of Minnesota, Michigan State University, Northwestern University, the University of Pennsylvania, the University of California-Los Angeles, and the Office of Research Integrity, particularly helpful, as is reflected in many of the provisions included here.