**University Procedure for Research Misconduct Allegations under Policy 4007**

*All definitions for this procedure are included in Policy 4007*

**I. Conduct of Proceedings**

Allegations of research misconduct will be managed through the process outlined in this procedure and policy 4007. During the course of the proceedings, all individuals involved have an obligation to provide confidentiality to all respondents, complainants, and research subjects identifiable from research records or evidence except when required to disclose by federal or state law or regulations, and as specified in policy 4007 and this procedure document.

Only university employees may serve on an inquiry or investigative committee in a research misconduct proceeding.  However, the university may obtain the advice of non-employees with relevant expertise at any stage of the proceeding, including the preliminary assessment of the allegation.  The committee(s) and institutional officials will follow these procedures to ensure all allegations are appropriately evaluated and due process is provided for respondents.

In addition to referral to appropriate institutional officials, if at any point in the proceedings, evidence of harm to research subjects is identified, the Institutional Review Board or Institutional Animal Care and Use Committee will be notified and will independently conduct an investigation. If at any point in the proceedings an undisclosed conflict of interest, only as defined in University Policies 4001 and 4010, is identified, the Conflict of Interest Committee will be notified and will independently conduct an investigation.

If a respondent confesses to research misconduct, this procedure may be modified by the Assistant Vice President for Research Integrity & Assurance (AVP), in consultation with the Vice President for Research and Economic Development (Vice President) to accommodate necessary administrative actions earlier in the process and/or reduce or eliminate procedures that are not relevant.

These procedures set forth distinct timelines for investigative proceedings regarding allegations of research misconduct. The University shall make every effort to conform to those timelines. However, any failure by the University to meet the timeline requirements set forth herein shall not be grounds for a finding in favor of the respondent.

**II. Allegation**

Making an allegation

An allegation of research misconduct may be made by disclosing the alleged misconduct to the respondent’s Dean or Institute Director, the Vice President, or the AVP. All employees who learn of a complaint have a duty to report it to the AVP. For complainants unaffiliated with the university or unsure of the respondent’s affiliations, complaints should be directed to the Vice President or AVP. Allegations received by a person other than the Vice President shall be promptly referred to the Vice President or AVP.

Whenever possible, at a minimum the complainant should provide: the name of the respondent, names of witnesses, description of the misconduct, when and where the misconduct occurred, any relationship they have to the respondent, and supporting documentation. Additionally, if known, the complainant should specify whether the project is funded and the funding source. Finally, the complainant should provide their contact information unless they wish to remain anonymous. If the complainant wishes to remain anonymous, the Vice President or AVP will record the complaint without any identifiers that may have been disclosed during the allegation process.

The complainant has a duty to make the allegation in good faith. If at any point in a research misconduct proceeding the Vice President or the respondent’s Dean or Institute Director believes that the allegation was not made in good faith, that official will refer the matter for appropriate handling under existing university procedures.  In addition, if the respondent is a member of the faculty, he or she may bring a grievance under the grievance provisions of the Faculty Handbook.

Preliminary assessment of allegation

Within 14 days of receiving an allegation of research misconduct, the AVP, or Vice President’s designee in cases where the AVP has a conflict of interest, will assess the allegation to determine if an inquiry is warranted. Except in extraordinary circumstances, an allegation that is not made in writing (or subsequently reduced to writing) and supported by specific evidence does not warrant an inquiry.  An inquiry is warranted if the alleged conduct meets the definition of research misconduct in policy 4007 and if the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.  If the alleged conduct fails to meet these criteria, no inquiry will be conducted. Where possible, the AVP may request additional details from the complainant to evaluate the need for an inquiry.

**III. Inquiry**

The purpose of an inquiry is to conduct an initial review of evidence to determine whether to recommend that an investigation be conducted.  Within 7 days of making a determination that an inquiry is warranted, the AVP will provide notice to the respondent. This notice will include a statement of the allegation, a description of the inquiry process, and a request for information and names of witnesses. This notice will be copied to the respondent’s local academic unit administrator, Dean or Director, Vice President, and the Provost.

The AVP will review the allegations, the evidence, and gather information through interactions with the complainant, respondent, and other witnesses as appropriate. The AVP will form an inquiry committee with members appropriate to evaluate the charges. The committee will consist of three to five members; size and scope of the committee will be based on the allegation and needed evaluation. No individual involved in the inquiry will have conflicts of interest with the complainant or the respondent.  Individuals appointed to the committee will typically not have an academic or administrative appointment in the same department as the respondent, because persons in the same department as respondent may be required to serve as witnesses or expert witnesses in the proceedings. The inquiry and preparation of the draft inquiry report should ordinarily be completed within sixty (60) days of receipt of an allegation by the Vice President or AVP.

The respondent will be provided the draft inquiry report and have 14 days to provide a confirmation or response to the report. The AVP will then prepare a final inquiry report for the Vice President which recommends whether an investigation should be conducted.  This final inquiry report will be prepared within 7 days of receipt of comments from the respondent. An investigation is warranted if there is a reasonable basis for concluding that the alleged conduct falls within the definition of research misconduct under this policy and preliminary information-gathering and fact-finding from the inquiry indicates that the allegation may have substance.  The inquiry report will contain the following:

1. The name and position of the respondent;
2. The names and positions of the inquiry committee;
3. A description of the allegations of research misconduct;
4. Any federal or other external support involved;
5. The basis for recommending that the alleged actions warrant or do not warrant an investigation;
6. Comments on the report by the respondent;
7. A recommendation as to whether the complainant should be notified of the results of the inquiry and, if so, which parts of the report, if any, should be included in the notification;
8. A notification that the information should be maintained confidentially; and
9. Any recommendations to refer any of the inquiry findings to other university officials for appropriate action.

Within 15 days of receiving the inquiry report, the Vice President will determine whether to conduct an investigation and will provide notice to the respondent of this determination, provide the respondent a copy of the final inquiry report, and act on the other recommendations of the inquiry report.  This notice will also include a statement of the allegation, a description of the investigation process, and the identities of the members of the investigation committee. The AVP will provide University Counsel with a copy of the report. This notice and final inquiry report will be copied to the respondent’s local academic unit administrator, Dean or Director, and the Provost.

The Vice President will notify funding agencies as required by their respective policies when inquiries are forwarded to the investigation stage.

**IV. Investigation**

The purpose of an investigation is to determine whether research misconduct occurred and, if so, by whom and to what extent.  A finding of research misconduct requires that:

            (a) The misconduct was committed intentionally, or knowingly, or recklessly; and

            (b) The allegation was proven by a preponderance of the evidence; and

(c) There was a significant departure from accepted practices of the relevant research community.

The university has the burden of proof in making a finding of research misconduct.  The respondent has the burden of presenting, and proving by a preponderance of the evidence, any evidence to support a complete or partial defense, or to negate the allegations, and any mitigating factors relevant to a decision to impose administrative actions.

Within seven days of determining an investigation is warranted, the Vice President will appoint the investigation committee and a chair of that committee from among individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegation.  The committee will typically be composed of three to five individuals from among the academic and administrative faculty with appropriate expertise to evaluate the allegation of research misconduct. Except in extraordinary circumstances, the majority of the investigative committee’s members will be tenured faculty. Individuals appointed to the committee will typically not have an academic or administrative appointment in the same department as the respondent, because persons in the same department as repondent may be required to serve as witnesses or expert witnesses in the proceedings. Inquiry committee members may be appointed to the investigative committee.

The Vice President will provide a notification listing committee members to the respondent. The respondent may challenge a member of the investigation committee on the basis of conflict of interest or bias by submitting the challenge in writing to the Vice President within five days of the date of the notification.  The Vice President will determine whether to accept or deny the challenge and with whom a challenged member is replaced.  The respondent may challenge the replacement in the same manner.

Within 14 days of final committee appointment, the Vice President will begin the investigation by convening the first meeting of an investigation committee.  At the investigation committee's first meeting, the Vice President will review the following:  the allegations, the findings of the inquiry, the procedures and standards for conducting the investigation, confidentiality obligations, the need for an investigation plan, the possible penalties for a finding of misconduct, and the timeframe for completing the investigation.  The University Counsel and AVP will accompany the Vice President at the first meeting of the investigation committee and remain available to advise the committee during its investigation.

If the investigation discloses any allegation against the respondent not addressed during the inquiry or in the initial notice of the investigation or any allegation against an additional respondent, the committee will report the allegation to the AVP for assessment.  If the AVP, with guidance from the inquiry committee, finds that the additional allegation meets the definition of research misconduct and is sufficiently credible and specific, the allegation becomes part of the ongoing investigation and investigative times are extended to accommodate evaluation of this new allegation.

In conducting the investigation, the committee –

               (a) Will use diligent efforts to ensure that  the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of the allegations;

               (b) Will interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent; and

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

The committee will ensure that any interview conducted during the investigation is recorded, that a transcript of the recording is prepared, that the interviewee is provided a copy of the transcript for correction and the opportunity to comment on its contents, and that the transcript and any comments of the interviewee are included in the record of the investigation.  The Committee will schedule interviews of each of the witnesses, including the respondent. The respondent may attend interviews of the complainant and witnesses, along with his or her attorney, and may direct questions to them.  The committee will notify the respondent at least 14 days in advance of the scheduled date of such interviews.

After gathering and examining the relevant evidence, the investigation committee will:

            (a) Prepare a draft investigation report;

            (b) Give the respondent a copy of the draft report, and, concurrently, a copy of, or supervised access to, the evidence on which the report is based; and

            (c) Provide notice to the respondent of his or her opportunity to provide a written response to the draft report within 30 days of the date on which he or she received it.

The committee will ensure that any response submitted by the respondent is considered and included in the final investigation report.  The committee will also give the University Counsel a copy of the draft investigation report.

The committee will then prepare a final investigation report to the Vice President.  In the report, the committee will –

            (a) Describe the nature of the allegations of research misconduct;

(b) Describe and document any Federal or other external support;

(c) Describe the specific allegations of research misconduct considered in the investigation;

(e) Identify and summarize the research records and evidence reviewed, identify any evidence taken into custody but not reviewed, and summarize the reasons why any evidence was not taken into custody;

(f) Provide a finding as to whether research misconduct did or did not occur for each separate allegation of research misconduct identified during the investigation, and if misconduct was found:

(i) identify it as falsification, fabrication, or plagiarism and whether it was committed intentionally, or knowingly, or recklessly;

(ii) summarize the facts and the analysis supporting the conclusion and consider the merits of any reasonable explanation by the respondent and any evidence that rebuts the respondent’s explanations;

(iii) identify any publications that need correction or retraction;

(iv) identify the person or persons responsible for the misconduct; and

(v) list any current support or known applications or proposals for support that the respondent or respondents have pending with any Federal agency;

(g) Include and evaluate any response made by the respondent on the draft investigation report;

(h) Include a recommendation as to whether the complainant should be notified of the results of the investigation and, if so, which parts of the report, if any, should be included in the notification;

(i) Include any recommendations for administrative actions relating to the misconduct found; and

(j) Include any recommendations to assist the complainant or any other person who was harmed by the conduct found.

The investigation will ordinarily be completed within 120 days of the first meeting of the investigation committee.  For proceedings that involve Federal support and research misconduct as defined by the funding agency, if the committee is unable to complete the investigation within the time prescribed by the funding agency, the Vice President will communicate with the agency regarding any requirements relating to an extension.  For other proceedings, the Vice President may grant a reasonable and specified extension for good cause.

**V. University Determination**

The Vice President will provide a copy of the final investigation report and decision to the respondent.  This final report will be copied to the respondent’s local academic unit administrator, Dean or Director, and the Provost.

If the decision is that the respondent committed research misconduct, the Vice President will provide notice to the respondent that he or she may appeal the decision by filing a request for reversal or modification of the decision and grounds for that request with the Provost within 30 days of receiving the university’s decision.  The Provost will generally issue a written decision on the appeal, including the reasons for the decision, within 60 days of the date the appeal is filed.  This written decision will be copied to the respondent’s local academic unit administrator, Dean or Director, and the Provost. If the university is unable to complete the appeal within the time prescribed by a funding agency, the Vice President will communicate with the agency regarding any requirements relating to an extension.  The Vice President will provide notice of the Provost’s decision to the respondent. The Vice President also will provide a final case report to federal funding agencies when required.

If research misconduct is found, the administrative actions described in policy 4007 will apply.

If the decision is that research misconduct did not occur, the university will undertake all reasonable, practical, and appropriate efforts to protect and restore the respondent’s reputation if the respondent requests that it do so.

**VI. Research Records and Evidence**

The university will take the following specific steps to obtain, secure, and maintain the research records and evidence pertinent to the research misconduct proceeding:

               (a) If an inquiry is warranted, the university, not later than when it notifies the respondent of the allegation, will take all reasonable, practical, and lawful steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding, inventory those materials, and sequester them in a secure manner, except that in those cases where the research records or evidence encompass equipment or instruments shared by a number of users, custody may be limited to copies of the data or evidence on that equipment or those instruments, so long as those copies are substantially equivalent to the evidentiary value of the equipment or instruments.

               (b) Where appropriate, the university will give the respondent copies of, or reasonable, supervised access to, the research records.  To the extent consistent with its commitment to maintain confidentiality, the university will provide other researchers who participated in the work similar access to sequestered records.

               (c) The university will undertake all reasonable and practical efforts to take custody of additional research records and evidence discovered during the course of the research misconduct proceeding, including at the inquiry and investigation stages, or if new allegations arise, subject to the exception for equipment or instruments in (a) above.

               (d)  The university will maintain all records of the research misconduct proceeding for seven years after completion of the proceeding or any related proceeding of the funding agency, whichever is later, unless the proceeding involved Federal support and research misconduct as defined by the funding agency and the university has transferred custody of the records and evidence to the appropriate Federal agency or that agency has advised the university that it no longer needs to retain the records.