

Seton Hall University

Policy and Procedures for Responding to Allegations of Research Misconduct

Revised May 2016

A. POLICY STATEMENT

Research misconduct includes fabrication of data, plagiarism, falsification, or other practices that seriously deviate from commonly accepted standards within the scientific community for proposing, conducting, or reporting research. It does not include honest errors or honest differences in interpretation or judgment of data. Seton Hall University requires that all scientific research conform to the requirements of federal law contained in the Code of Federal Regulations, 42 CFR Part 50 (<http://ori.hhs.gov/handling-misconduct>). Any individuals in any of the University's Schools or Colleges who believe an act of scientific misconduct has occurred or is occurring should notify the dean of the appropriate school, who should immediately notify the Provost.

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B. FORMS OF RESEARCH MISCONDUCT

Researchers are responsible for the accurate collection of data and for analyzing, presenting, and summarizing that data in a fashion that accurately conveys the nature of the data. Thus, researchers should be guided by the goal of their work being understood accurately by institutional colleagues, students, the scientific community, funders, and the public, and can be held responsible for any acts that willfully interfere with this accurate understanding; in other words, fabrication, plagiarism, and falsification do not constitute the only forms of research misconduct. For clarity, these terms will be defined but this definition does not constitute a guarantee that behavior that does not technically meet the definition is permissible.

Fabrication is the invention of data, in part or whole, and may include the invention of data for a procedure that was followed but produced different data, the invention of data from a procedure that was never implemented, the willful reporting of analyses and summaries that are not based on genuine data, and other actions.

Plagiarism is the presentation of findings, assertions, or words as authored by the researcher when those findings, assertions or words originated with a different individual or individuals. Researchers give credit to the original sources of research material and make good faith efforts to determine if their findings, assertions, and words are original. The researcher is responsible to use accepted scientific tools to provide credit (such as citations, quotations, footnotes and references) and to employ them in a fashion that accurately conveys the degree of the researcher's authorship (for example, to distinguish acknowledging a precedent as the source of an idea or as the source of exact wording).

Falsification is the altering of data, analyses, and other research material in a way that does not represent the genuine results of the procedures. Falsification can also include the willful misrepresentation of the procedures used to collect the data in a way likely to mislead the consumer of the research material as to the reliability and import of the findings.

C. REASON FOR POLICY/PURPOSE

Institutions of Higher Learning have been entrusted by society and by the students who attend with faithfully communicating the results of scholarly research and responsibly increasing the collective knowledge of their academic disciplines. Furthermore, federal agencies denote their faith in the University by various forms of authorization to conduct research and often by financial support and access to expertise. The joint action of college personnel to increase public knowledge and at the same time to endow that knowledge to citizens in the classroom and laboratory represents one of the chief advantages of the prevailing system of Higher Education. Furthermore, research is often supported by public funds and research misconduct constitutes waste of these funds. Ensuring that the methods of research conform to ethical principles is thus of highest importance.

Attention to the ethics and integrity of research is an integral part of the research enterprise at Seton Hall. Each year, Provost Robinson submits an Annual Report on allegations of research

misconduct received at the University in the past year and the University's actions in response, following the requirements of the Public Health Service 42 C.F.R. 93.301. To comply with NSF requirements, researchers preparing to submit NSF proposals first show that they are familiar with principles of Responsible Conduct of Research, ordinarily by completing the Center on Materials and Devices for Information Technology Research (CMDITR) RCR tutorial available on the OGRS website (<http://www.shu.edu/news/article/183165>.) Furthermore, this document will be distributed and discussed at the Research Followup session of New Faculty Orientation.

D. ADDITIONAL POLICIES

Some Federal agencies currently have their own policies regarding scientific misconduct and require notification to the agency in the event of such an allegation or investigation. At this time, those agencies are the U.S. Public Health Service (PHS) and the National Science Foundation (NSF). Where required, this notification will be made by the Provost. While both PHS and NSF recognize that the primary responsibility for the prevention and detection of misconduct, and for the conduct of inquiries and investigations, rests with the awarded institution, they both retain the right to initiate their own investigations at any time.

Seton Hall's Faculty Guide gives the Faculty Senate the responsibility to devise and implement procedures for investigating allegations of academic dishonesty: "The definition of 1) what constitutes academic dishonesty, 2) its levels of severity, and 3) the procedures for determining its existence and possible consequences in individual cases are to be determined by the Faculty Senate with the approval of the Provost and published to the faculty." At Seton Hall, the Provost's Office and the Faculty Senate work together to determine practices and policies that meet both faculty leadership needs and federal and legal guidelines. Reasonable effort has been made so that the current policy and faculty practice and policy are consistent. In the case of any conflicts between the Senate policy and PHS or legal guidelines, the PHS or legal guidelines will take precedence.

E. DEFINITION OF TERMS USED IN THIS DOCUMENT

The governing federal policy for investigations of Research Misconduct is Public Health Service Policies on Research Misconduct, 42 CFR Part 93 and the following definitions are taken from this source, which can also be accessed at (<http://ori.hhs.gov/handling-misconduct>).

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

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

Evidence means any document, tangible item, or testimony offered or obtained during a research misconduct proceeding that tends to prove or disprove the existence of an alleged fact.

Inquiry means preliminary information-gathering and preliminary fact-finding that meets the criteria and follows the procedures of Sec. 93.307-93.309.

Investigation means the formal development of a factual record and the examination of that record leading to a decision not to make a finding of research misconduct or to a recommendation for a finding of research misconduct which may include a recommendation for other appropriate actions, including administrative actions.

Notice means a written communication served in person, sent by mail or its equivalent to the last known street address, facsimile number or e-mail address of the addressee. Several sections of Subpart E of this part have special notice requirements.

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

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

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

Respondent means the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.

Retaliation for the purpose of this part means an adverse action taken against a complainant, witness, or committee member by an institution or one of its members in response to--

- (a) A good faith allegation of research misconduct; or
- (b) Good faith cooperation with a research misconduct proceeding.

F. GENERAL POLICIES AND PRINCIPLES

F.1. Responsibility

As noted, any individuals in any of the University's Schools or Colleges who believe an act of scientific misconduct has occurred or is occurring should notify the dean of the appropriate school, who should immediately notify the Provost, Larry A Robinson. As per the norms and practices of the Public Health Service, allegations can be made orally or in writing. While the responsibility to be aware of and take action against research misconduct is a public responsibility that is an integral component of employment, and the University has safeguards to protect its members from retaliation for reporting suspicions of misconduct, allegations can be made anonymously by sending a document stating the concerns in question to Provost Robinson by mail. Provost Robinson shall serve as Deciding Officer, and the Dean for Research and Graduate Services, Associate Provost Gregory Burton, as the Research Integrity Officer, in the senses used in 42 CFR Part 93.

F.2. Scope

This statement of policy and procedures is intended to carry out this institution's responsibilities under the Public Health Service (PHS) Policies on Research Misconduct, 42 CFR Part 93. This document applies to allegations of research misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results) involving:

- A person who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with this institution; and
- (1) PHS supported biomedical or behavioral research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information,
(2) applications or proposals for PHS support for biomedical or behavioral research, research training or activities related to that research or research training, or
(3) plagiarism of research records produced in the course of PHS supported research, research training or activities related to that research or research training. This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal for PHS funds resulted in a grant, contract, cooperative agreement, or other form of PHS support.

This statement of policy and procedures does not apply to authorship or collaboration disputes and applies only to allegations of research misconduct that occurred within six years of the date the institution or HHS received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR § 93.105(b)[Scope statement excerpted from 42 CFR 93.102.]

F.3. Cooperation with Research Misconduct Proceedings

All members of the Seton Hall Community are expected to cooperate fully with investigations of research misconduct, including the complainant, respondent, and other research participants and academic authorities. Individuals interviewed should provide both requested information and information and documentation they are aware of and in good faith believe to be germane to the

investigation. Individuals who are aware of the investigation but have not been interviewed and who believe in good faith that they have information germane to the investigation should contact the designated investigators to provide the information.

F.4. Confidentiality

The nature of research misconduct places limits on the extent to which confidentiality can be offered to the complainant, the respondent, or other parties associated with an allegation of research misconduct. The University will conform with all laws and will fulfill all obligations to funding agencies, journals, external collaborators, and other constituencies outside the university that are potentially affected by research misconduct. Within those limits, University investigations are conducted in a manner to respect the confidentiality of all parties.

F.5. Protecting complainants, witnesses, and committee members

Seton Hall has an up-to-date “whistleblower” policy maintained by the Compliance Office that was developed based on the expectations of our governing Board and the University’s overall risk management program. University officials designated to manage and conduct the investigation act to protect the rights of all parties to the investigation. In the event that an investigation committee is formed, the rights of the members of the committee are also protected. Retaliation includes negative work action or change in working conditions that come about as a result of the participation of the individual in the investigation, but also negative commentary about the participation, retaliatory diminishment of roles, and/or exclusion from functions and activities in which the individual had been included before the participation or would have been included in if not for the participation. Any complainant, witness, or committee member who believes they have been the subject of retaliation for their part in an investigation should inform the Provost, the Dean of Research and Graduate Services, or the Compliance Office. Disciplinary action can be taken against an individual found to have engaged in retaliatory behavior against a complainant or witness; this disciplinary action can include, among other consequences, suspension for up to a semester, demotion in rank, and non-renewal of contract for an untenured faculty member.

F.6. Protecting the Respondent

Within the limits described in F.4, the University will also act to protect the rights and reputation of the respondent. The respondent will be notified promptly of the opening of an investigation and the nature of the allegations; a good faith effort will be made to notify the respondent before an investigation formally commences, and also of new allegations that emerge during the process of inquiry. The respondent has the right to speak to the allegations and to provide a written response for the investigation that will be part of the investigation record. In the event that an investigation committee is formed, the respondent will be informed of the anticipated witnesses and to propose witnesses to facts and interpretations of facts the respondent deems to be exculpatory. The respondent will be promptly notified of the results of the inquiry.

After being interviewed (and recorded) during the inquiry, the respondent shall have access to the recording or transcript of his or her testimony and the opportunity to correct that record. The

respondent shall also have the right to review the investigation record when it is complete and propose corrections; if the administrators responsible for the investigation do not accept the emendations, the file shall include the record of the proposed changes.

The respondent shall also be given the opportunity at any stage before, during, or after the investigation, to accept the charges and admit to wrongdoing. In consultation with other university officials, the Provost may move to close the university review by forwarding the admission and proposed responses to ORI. If ORI accepts the admission and proposed responses, the university review may then be closed. The RIO will contact ORI if the respondent indicates they will admit to wrongdoing, for guidance on procedures for admissions that are full, complete and acceptable to ORI.

Seton Hall's policy is that outside counsel and advisors are not included in internal meetings, including research misconduct investigations and meetings with university officials pursuant to these cases. However, the respondent has the right to seek outside counsel and advice to prepare for his or her responses and actions during the investigation. Seton Hall's practice does allow a faculty member facing allegations or grievances to be accompanied by an internal support person during hearings, interviews, and meetings. This individual serves as a witness for the proceedings but does not speak, offer evidence, or otherwise participate in the proceedings at hand.

Seton Hall's Faculty Senate appoints a standing Academic Integrity Committee to conduct proceedings and make recommendations regarding charges brought against any faculty member for breach of academic integrity. The Committee is charged with conducting independent investigations and making recommendations to the Provost as to the soundness, validity and gravity of charges of breach of academic integrity brought against any faculty member. The Provost shall make decisions regarding sanctions and penalties to be imposed on any faculty member if allegations of breach of academic integrity are proven. The Academic Integrity Committee is also charged with safeguarding the rights, dignity and privacy of any faculty member against whom charges are brought through all phases of the process of investigation, recommendation, and decision-making. The roles of conducting an investigation and making recommendations to the administration, while at the same time protecting the charged faculty member's rights within the process, are complementary. The Academic Integrity Committee will participate in the Inquiries and Investigations detailed in this document to the extent that is consistent with ORI and PHS guidelines.

G. INQUIRY

G.1. Preparing for the Inquiry

The decision on whether to launch an Investigation should be based on an initial Inquiry. The members of the Inquiry panel shall review the allegation of potential research misconduct and carry out preliminary fact-finding pursuant to a written report presenting the conclusions and the evidence that supports the conclusions.

An allegation initially is reported to the Dean of the charged faculty member's college or school. The person bringing the allegation does not need to be a member of the Seton Hall University community. Within 30 business days the Dean appoints a panel of three impartial tenured (or, in the cases of schools/colleges without tenure, senior) faculty members from the college or school to conduct a preliminary investigation to evaluate the credibility of the allegation. Frivolous or malicious allegations may be subject to disciplinary action.

At least one panel member must have a terminal degree in the field of scientific research which is the subject of the Inquiry. In selecting panel members, the Dean shall take steps to ensure that there are no real or apparent conflicts of interest between panel members and either the respondent or complainant. Relationships that might involve a potential conflict of interest include familial or dating relationships, mentoring, co-authorship, physician/patient, or scholarly rivalry. No person shall be disqualified from participating in an Inquiry merely because of prior knowledge about the matter under consideration, absent direct involvement as a participant, nor shall simply being in the same department constitute a conflict of interest in the absence of one of these other relationships. Both the complainant and the respondent shall have an opportunity to review the proposed panel and alert the Dean to conflict of interest relationships; if the Dean considers this concern to be reasonable, he or she shall appoint a replacement member of the panel.

Within 10 business days, the Dean notifies in writing the faculty member about whom allegations have been made that an investigation is underway, provides a clear statement of the allegation(s) and requests a written statement from the faculty member explaining his or her position with regard to the allegations. The role of the Dean is to initiate the process, not to assess the credibility of the allegation. The charged faculty member has 20 business days to respond in writing to the Dean about the allegations. The Dean shall forward this response to the appointed faculty panel. Also, the faculty member may at this point seek the guidance and assistance of his or her own faculty advocate.

The faculty panel appointed by the Dean rules on the credibility of the allegation within 20 business days of receiving the respondent's statement. If a majority of the faculty panel find the allegation(s) credible (considering the faculty member's response), they so inform the Dean in writing providing their rationale and including any supporting documents. The Dean issues a written summary detailing the alleged violations of academic integrity and forwards it, along with all supporting documents, to the Faculty Senate Academic Integrity Committee within ten

business days after receiving the panel's ruling that the allegations appear credible. Simultaneously, the Dean shall also forward a copy of the complaint along with all supporting documents to the Provost and to the respondent, who is invited to comment on the matter.

Should the faculty panel not find the allegation to be credible, the matter shall be closed and no record relating to the allegation will be placed in the faculty member's official file. Notification of this action shall be made to the Provost, the Dean, the charged faculty member, and the accuser. The only record of the allegation, the supporting documents and the investigation shall be maintained in a confidential and secure manner by the Provost's office.

If the Dean is involved (as accuser or accused) in an allegation of a breach of academic integrity, the role of the dean in steps 1 through 3 shall be filled by the Provost.

As per 42 CFR Part 93.307, an Inquiry must be completed within 60 days after it is initiated unless circumstances clearly warrant a longer period. An Inquiry shall include a review of all available documents, as well as interviews with witnesses (including the individual(s) who raised the concern) believed by the Inquiry panel to have relevant information.

The following details about the conduct of an Inquiry are taken from or based on 42 CFR Part 93.307. An Inquiry is a preliminary examination of the matter, and is not a formal, adversarial proceeding. A person who is the subject of an Inquiry has the right to submit a written statement to the Inquiry panel, and to appear before the panel to make a statement. Although both the subject of the Inquiry and the person alleging misconduct may submit the names of persons they wish the panel to interview, the panel shall decide which interviews to conduct.

G.2. Sequestration of Records

The DGRS will generally initiate procedures to sequester records concerning the research activity that is the subject of the inquiry at the time the respondent is notified of the allegations. The Dean of the faculty member's college will consult with the Dean of Research and Graduate Services (DRGS) as to the specifics necessary to evaluate the allegation; if sequestration is called for, the Dean of Research and Graduate Services will inform the respondent at the time of notification about the necessary records and request them to indicate as well the records pertinent to the allegation. The records may include paper, electronic, audio and physical records and files. A Determination will be made if other affected individuals are involved and thus whether other records may be germane to the inquiry and thus should also be subject to sequestration.

As soon as practicable, the DRGS will have an inventory prepared of materials turned over as part of the inquiry. The inventory will be part of the inquiry file and will also be shared with the respondent. Ordinarily, the respondent will have the right to copies of any of the sequestered records that are requested. If the records are in a medium in which copying is impractical, the DRGS will arrange for supervised physical access to inspect the requested evidence.

G.3. Conducting the Inquiry

Neither the subject of the Inquiry nor the person alleging misconduct has a right to be present at panel interviews. No party has the right to counsel before an Inquiry panel, or to cross examine witnesses. Interviews with complainants, respondents, and witnesses should be tape recorded and transcripts prepared of these interviews.

An Inquiry shall culminate with a written report stating the evidence reviewed, summarizing relevant interviews, and the conclusions reached. Conclusions shall be restricted to a statement whether there is clear and convincing evidence of research misconduct in science by a University employee or student. The Inquiry report shall be submitted to the Provost as submitted. The report and record of the Inquiry shall be maintained in a secure manner by the Provost for a period of at least three years after the termination of the Inquiry.

Any individual against whom an allegation of misconduct has been made shall be furnished a copy of the Inquiry report, and may within 10 University business days after the receipt of the report submit written comments, which shall be appended to the report. The report and any comments shall be submitted to the Provost. The individual originally raising the allegations may also comment on the draft Inquiry report.

All Inquiries and Inquiry reports shall be confidential. Competent evidence received in the course of an Inquiry that a crime has been committed shall be promptly forwarded to the University Counsel. Counsel shall promptly review the evidence and, if warranted, notify the appropriate authorities within 24 hours of obtaining any reasonable indication of possible criminal violations as required by 42 CFR Part 50.12

The Inquiry Panel shall endeavor to complete its investigation within 60 days of its being formed. Extensions beyond 90 days should be requested of the Provost and approved in writing.

G.4. Inquiry Report

The Inquiry panel prepares a written report with the following elements:

1. The respondent's name and position
2. A statement of the allegations of research misconduct
3. A list of sources of funding for the research that was potentially affected by the research, including such grant and contract numbers that enable unique identification of funding sources
4. References for publications that include the data involved in the questioned research
5. Any comments on the report by the respondent or complainant.
6. The panel's recommendation to the Provost as to the necessity of an Investigation, with justifications for the conclusions.

This report must be provided by the Provost to ORI. In addition, ORI may request documentation of the University policy governing the investigation, documentation of the evidence reviewed, and documentation of the charges reviewed by the Investigation committee. If the allegations that triggered an Inquiry do not lead to an Investigation, the Provost should notify ORI of this decision; documentation that would allow ORI to reach its own assessment of the merits of an Investigation should be retained for at least seven years, consistent with Sec 93.317.

Section 93.318 requires that ORI (as well as other PHS agencies) be notified of any special circumstances that exist surrounding the subject of the allegations.

H. INVESTIGATION

An Investigation is a formal examination and evaluation of relevant facts to determine if research misconduct has occurred. An Investigation shall be conducted if the Provost accepts that findings from an Inquiry report provide sufficient evidence of misconduct in science by a University employee or student. The Provost's decision to initiate an Investigation shall include a written statement of the facts which, if true, constitute misconduct in science. The investigative process should determine to the extent possible if the researcher actions in question genuinely represent a significant departure from professional norms, that the act was committed deliberately, and that the factuality of the allegation is supported by the preponderance of the evidence.

The Provost's decision shall be sent to each person who is a subject of the Investigation promptly after he has received the panel's Inquiry report. The original complainant shall also be notified in writing of the decision. The Provost shall cause a University Investigation to be commenced within 30 days of the completion of the Inquiry. The Provost shall notify the appropriate federal agency of a final decision to initiate an Investigation within ten University business days. All Investigations shall be confidential, except as provided below.

The Faculty Senate Academic Integrity Committee will act as Investigating Committee. As with the Inquiry, conflicts of interest should be avoided but foreknowledge of the allegations should not exclude a faculty member from participation; in general the same procedure listed in G.1 for the Inquiry shall again be followed for the Investigation. .

H.1. The Charge

The Provost or DGRS will prepare a written charge identifying the respondent by name, and the nature of the alleged misconduct. This charge will be shared at the first meeting of the Investigation Committee. The Provost or DGRS will also review the definition of research misconduct with the Investigation Committee. The Committee will be charged with investigating if there is clear and convincing evidence that research misconduct took place, and that the respondent was responsible, and with evaluating the seriousness of the misconduct.

After being charged, the Faculty Senate Academic Integrity Committee informs the accused faculty member in writing that it is conducting an independent investigation of the complaint and that the faculty member is invited, but not required, to appear before the committee to a) explain his or her position or b) receive guidance about his or her rights within the process and c) to have access in advance of the appearance a list of the principal evidence in the case. The faculty member also has the right to provide a written statement to explain his or her position to the committee. The accused faculty member may request to be accompanied by a faculty representative support person of his or her

choosing to all meetings with the committee or with University representatives. No outside attorneys may be present.

An Investigation shall include the examination of all documents, including but not necessarily limited to relevant research data and proposals, publications, correspondence, and memoranda of telephone calls. 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. If possible, interviews should be taped; complete summaries of these interviews should be prepared and provided to the interviewed party for comment or revision, and included as part of the investigatory file. The respondent has the right to appear before the Committee, to respond to all allegations, and to have access in advance of the appearance a list of the principal evidence in the case.

This examination shall normally be completed within 120 days. If during the course of an Investigation the committee receives evidence that federal funds are in danger of being misappropriated or that the purposes of the federal financial assistance are not being carried out, the committee shall forthwith notify the Provost, who will take appropriate interim administrative action.

Some components of investigations may have technical aspects that may be judged to require particular special expertise not found on the committee. The Investigative Committee may request to bring in an outside expert from outside the college or from within the college but outside the committee. This expert will have an advisory role only but may participate in interviews if the Committee chair determines this to be necessary to clarify the technical question. This expert shall be enjoined to the same expectations of confidentiality as the committee members and individuals interviewed.

The Committee will deliberate in closed session. All deliberations of the committee take place only in person, and no electronic communication is to be used in any part of the substantive discourse. After the formal meetings have been concluded, the Committee shall submit a written report to the Provost. The Committee's findings and recommendations will address only the question of whether there has been a violation of the University's scientific misconduct policy, specifying the nature of the violation which the Committee finds are supported by clear and convincing evidence based upon the entire record. It shall not include any recommendation regarding the sanctions to be imposed.

H.2. Nature of Report

Section 93.313 stipulates the following elements for the Investigative Report:

- “(a) Allegations. Describe the nature of the allegations of research misconduct.
- (b) PHS support. Describe and document the PHS support, including, for example, any grant numbers, grant applications, contracts, and publications listing PHS support.

(c) Institutional charge. Describe the specific allegations of research misconduct for consideration in the investigation.

(d) Policies and procedures. If not already provided to ORI with the inquiry report, include the institutional policies and procedures under which the investigation was conducted.

(e) Research records and evidence. Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody but not reviewed.

(f) Statement of findings. For each separate allegation of research misconduct identified during the investigation, provide a finding as to whether research misconduct did or did not occur, and if so--

(1) Identify whether the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;

(2) Summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the respondent;

(3) Identify the specific PHS support;

(4) Identify whether any publications need correction or retraction;

(5) Identify the person(s) responsible for the misconduct; and

(6) List any current support or known applications or proposals for support that the respondent has pending with non-PHS Federal agencies.

(g) Comments. Include and consider any comments made by the respondent and complainant on the draft investigation report.

(h) Maintain and provide records. Maintain and provide to ORI upon request all relevant research records and records of the institution's research misconduct proceeding, including results of all interviews and the transcripts or recordings of such interviews.”

Investigation reports of non-PHS supported research might include less material, but as per Faculty guidelines, any investigation report will include minimally a statement modifying, upholding or rejecting the complaint and forwards it to the Provost, along with recommendations for appropriate action.

The DGRS provides a draft of this report to the respondent for comment, along with copies of or supervised access to the evidence. The respondent will have up to 30 days from receipt of the draft to submit comments to the DGRS; these comments must be included in the Final Investigative report and also must be considered by the Investigation Committee. The DGRS may also provide a draft for comment to the Complainant, though this is not mandatory.

All individuals who have access to the draft, including the members of the Investigation Committee, the respondent, and if appropriate, the complainant, are obliged to keep confidential all matters within the draft report. The DGRS will reinforce this confidentiality at the time the draft is shared and may require additional conditions such as the signing of a confidentiality agreement.

H.3. Institutional Decision

The DRGS works with the Investigative Committee to finalize the draft, including comments by the respondent and, if applicable, complainant, and the report is then submitted to the Provost. After review of the report, the Provost states in writing a) whether the Institution accepts the

report, including its findings and recommended institutional actions, b) the institutional actions called for by the findings. The Provost will explain in this statement the reasons for any variation from the findings and recommendations of the Committee; the Provost may also remand the report to the Investigation Committee with instructions to continue its investigation or review.

When an Institutional decision has been reached, the DRGS will ordinarily notify the complainant and respondent in writing. The Provost will determine other appropriate notifications, including funding agencies, professional societies and licensing boards, collaborators on publications affected by the possible misconduct, editors of journals in which affected articles have been published, and law enforcement agencies. The DRGS shall advise the Provost on notifications that are obligatory for compliance with sponsoring and funding agencies.

In the case of findings of research misconduct, the respondent may appeal within 30 days of receiving the final investigative report. The basis of the appeal should be new evidence and not only disagreement of the interpretation and import of prior evidence. The appeal will be reviewed by the Faculty Senate Academic Integrity Committee if possible to the extent that the same members continue to be available. The appeal should be concluded within 120 days, and failing that, ORI should be contacted for authorization to extend the appeal process based on a written statement from the University detailing substantial cause for an extension.

After the appeal has been completed, the DGRS must submit the following to ORI:

a) the final Investigation report, signed by the Provost, with supporting documentation, as well as material pursuant to any appeal, b) an official statement of whether the University accepts the investigation report, specifying whether the University found misconduct and who was found to have committed the misconduct, and c) a statement of the administrative actions taken or intended against the respondent.

If the conclusion of the final investigative report is that no misconduct has occurred, the Provost shall consider taking actions to restore the respondent's reputation. This should be undertaken with the understanding that ORI will review the finding and may not concur, but remedial actions may be discussed and proposed upon the finding of no misconduct and then initiated upon receiving notification from ORI of concurrence with the finding. Ordinarily, notifications of the finding of no misconduct should be made in at least the same forums and formats in which it may have been necessary to report the investigation for possible misconduct; moreover, the Provost should cause a memo reporting the finding to be placed in the respondent's personnel file. The respondent may also request that an announcement of the finding be made in other forums that he or she reasonable believes may have received information about the investigation, even informally. Other remedies proposed by the respondent should be carefully considered.

Records of the inquiry, investigation, possible appeal and other events pertaining to the proceedings should be kept for 7 years after the completion of the University's proceedings as well as any proceeding on the matter conducted by the Public Health Service, if those records have not already been turned over to HHS or ORI. The records should be maintained in a secure manner, and they must be provided to ORI upon request if that request falls within the 7 years.

The ORI should also be informed if the University decides not to pursue an Investigation to a conclusion as described above, and the equivalent records should be available for ORI's use so that ORI can, if deemed appropriate by ORI, make its own conclusion about the justification for continuing or closing the investigation.