

Responding to Allegations of Research Misconduct Policy and Procedures

I. Introduction

A. General Policy

The purpose of this policy is to address research misconduct, which is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

Any individual affiliated with the University of California, Irvine (UCI) has an ethical responsibility to act if he or she suspects research misconduct has occurred. Appropriate actions may include raising questions, seeking perspective from peers or more experienced individuals (including campus ombudspersons), or making an allegation of research misconduct to the Department Chair, the Research Integrity Officer (RIO), or another Administrator.

This policy is based on the principle that quality research requires adherence to the highest standards of integrity in proposing, conducting, and reporting research. All UCI researchers are subject to this policy and are expected to be aware of and to comply with all applicable policies and procedures of the University, campus, and departments, as well as external entities funding their research. A practical guide and other training materials promoting the Responsible Conduct of Research are available at <http://www.research.uci.edu/ora/rcr.htm>.

The [University Policy on Faculty Conduct and the Administration of Discipline](#) and the [University Policies Applying to Campus Activities, Organizations, and Students--Part A, Student Conduct and Discipline](#) set forth expectations for high standards of ethical behavior for faculty and students, respectively, and provide procedures for addressing allegations of misconduct in research. Procedures for administration of discipline also exist for other academic and staff employees in accordance with applicable personnel policies and collective bargaining agreements.

Individuals associated with UCI are expected to cooperate with Research Integrity Officers and other institutional officials in the review of allegations of research misconduct and the conduct of inquiries and investigations into such allegations. It is the policy of the University to respond fully and fairly to all allegations of research misconduct and to comply with the reporting requirements of applicable funding agencies. Disciplinary procedures and other policies directly relevant to research misconduct committed by researchers are referenced in this policy. The reporting and investigation of suspected improper governmental activity, as defined by the Whistleblower Policy, are covered by the policy and guidelines under <http://www.evc.uci.edu/whistleblower/>.

Disputes about the conduct of research not reaching the level of research misconduct should

be resolved within the appropriate research group, center, or department. Such disputes might relate to authorship, attribution of credit, confidentiality, access to or interpretations of data, simple negligence, differences of opinion, or honest error.

The following procedures conform to the United States Public Health Service (Department of Health and Human Services) regulations under 42 Code of Federal Regulations (CFR) Part 93. While [42 CFR Part 93](#) applies to all individuals who may be involved with a project supported by, or who have submitted a grant application to, the Public Health Service (PHS), campus policy applies to all individuals engaged in University research whatever the funding source.

B. Scope

This policy and the associated procedures apply only to allegations of research misconduct that occurred within six years of the date when the University received the allegation.

Some improper practices are not considered research misconduct under this policy, but are nonetheless considered misconduct under other University policies including, but not limited to, guidelines relating to conflict of interest, intellectual property, biosafety, use of human and animal subjects, financial mismanagement, use of University facilities, outside professional activities of faculty members, and teacher-student relations.

This policy is intended to define the three increasingly formal stages – the Preliminary Assessment, the Inquiry, and the Investigation – of UCI’s response to allegations of research misconduct. The goal is to respond to such allegations in a manner that is expeditious, thorough, competent, objective, and fair; and to maintain appropriate confidentiality, avoid conflicts of interest, and balance the interests of all involved, including the respondent, members of the University community, relevant government agencies, and the general scientific community.

II. Definitions

A. *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 official or sponsor.

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

C. *Deciding Official (DO)* means the institutional official who makes final determinations on allegations of research misconduct and any institutional administrative actions. At UCI, in most cases the DO is the Vice Chancellor for Research (VCR).

D. *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.

- E. *Fabrication* means making up data or results and recording or reporting them.
- F. *Falsification* is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.
- G. *Good faith* as applied to a complainant or witness, means having a belief in the truth of one's allegation or testimony that a reasonable person could have based on the information known to the complainant or witness at the time. Good faith as applied to a committee member means cooperating with the purpose of helping an institution meet its responsibilities under 42 CFR Part 93. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.
- H. *Inquiry* means preliminary information-gathering and preliminary fact-finding.
- I. *Institutional member* means a person who is employed by, is an agent of, or is affiliated by contract or agreement with the University. Institutional members may include, but are not limited to, administrators, tenured and untenured faculty, support staff, researchers, research coordinators, clinical technicians, postdoctoral and other fellows, students, volunteers, agents, and contractors, subcontractors, subawardees, and their employees.
- J. *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.
- K. *Office of Research Integrity* or [ORI](#) is the office to which the U.S. Department of Health and Human Services (HHS) Secretary has delegated responsibility for addressing research integrity and misconduct issues related to Public Health Services (PHS) supported activities.
- L. *Plagiarism* is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- M. *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.
- N. *Records of research misconduct proceedings* means: (1) the research records and evidence secured for the research misconduct proceeding, except to the extent the Research Integrity Officer determines and documents that those records are not relevant

to the proceeding or that the records duplicate other records that have been retained; (2) the documentation of the determination of irrelevant or duplicate records; (3) the inquiry report and final documents (not drafts) produced in the course of preparing that report, including the documentation of any decision not to investigate; (4) the investigation report and all records (other than drafts of the report) in support of the report, including the recordings or transcripts of each interview conducted; and (5) the complete record of any appeal within the institution from the finding of research misconduct.

- O. *Research Integrity Officer (RIO)* means the institutional official responsible for: (1) assessing allegations of research misconduct to determine if they fall within the definition of research misconduct, are covered by 42 CFR Part 93, and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified; and (2) overseeing inquiries and investigations; and (3) the other responsibilities described in this policy.
- P. *Research misconduct* means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. **Research misconduct does not include honest error or differences of opinion.**
- Q. *Research misconduct proceeding* means any actions related to alleged research misconduct including but not limited to, allegation assessments, inquiries, investigations, sponsor oversight reviews, hearings and administrative appeals.
- R. *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 the sponsoring agency or an institutional official by a respondent in the course of the research misconduct proceeding.
- S. *Respondent* means the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.
- T. *Retaliation* means an adverse action taken against a complainant, witness, or committee member by UCI or one of its institutional members in response to (1) a good faith allegation of research misconduct; or (2) good faith cooperation with a research misconduct proceeding.

III. Rights and Responsibilities

A. Research Integrity Officer

The Vice Chancellor for Research serves as the RIO who has primary responsibility for implementation of UCI's policies and procedures on research misconduct. However, he/she may designate a RIO who shall be responsible for assessing allegations of

research misconduct and determining when such allegations warrant inquiries and for providing administrative support for inquiries and investigations. The RIO will be an institutional official who is well qualified to administer the procedures and is sensitive to the varied demands made on those who conduct research, those who are accused of research misconduct, those who make good faith allegations of research misconduct, and those who may serve on inquiry and investigation committees.

The responsibilities of the RIO include the following duties related to research misconduct proceedings:

- Consult confidentially with persons uncertain about whether to submit an allegation of research misconduct;
- Receive allegations of research misconduct;
- Assess each allegation of research misconduct in accordance with Section V.A. of this policy to determine whether it falls within the definition of research misconduct and warrants an inquiry;
- As necessary, take interim action and notify the sponsoring agency of special circumstances, in accordance with Section IV.F. of this policy;
- Sequester research data and evidence pertinent to the allegation of research misconduct in accordance with Section V.C. of this policy and maintain it securely in accordance with this policy and applicable law and regulation;
- Provide confidentiality to those involved in the research misconduct proceeding;
- Notify the respondent and provide opportunities for him/her to review, comment, or respond to allegations, evidence, and committee reports in accordance with Section III.C. of this policy;
- Inform respondents, complainants, and witnesses of the procedural steps in the research misconduct proceeding;
- Appoint the chair and members of the inquiry and investigation committees, ensure that those committees are properly staffed and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;
- Determine whether each person involved in handling an allegation of research misconduct has an unresolved personal, professional, or financial conflict of interest and take appropriate action, including recusal, to ensure that no person with such conflict is involved in the research misconduct proceeding;
- In cooperation with other institutional officials, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants,

witnesses, and committee members and counter potential or actual retaliation against them by respondents or other institutional members;

- Keep the Vice Chancellor and others who need to know apprised of the progress of the review of the allegation of research misconduct; (Administrators who need to be apprised usually include the Dean, the Department Chair and, if the allegations involve students, the Dean of the Graduate Division or the Dean of Students.)
- Notify and make reports to ORI or the sponsor, if applicable, as required by 42 CFR Part 93;
- Ensure that administrative actions taken by the institution and ORI or the sponsor are enforced and take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, journal editors, and licensing boards of those actions; and
- Maintain records of the research misconduct proceeding and make them available to the sponsor in accordance with Section VIII.F. of this policy.

B. Complainant

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation. As a matter of good practice, the complainant should be interviewed at the inquiry stage and given the transcript or recording of the interview for correction. The complainant must be interviewed during an investigation, and be given the transcript or recording of the interview for correction.

At the conclusion of an inquiry, the letter to the complainant should include enough detail to explain the basis for not proceeding to an investigation, if that is the decision.

C. Respondent

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

- A good faith effort from the RIO to notify the respondent in writing at the time of or before beginning an inquiry;
- An opportunity to review evidence under supervision;
- An opportunity to comment on the inquiry report and have his/her comments attached to the report;
- Be notified of the outcome of the inquiry, and receive a copy of the inquiry report that includes a copy of UCI's policies and procedures on research misconduct and

reference to 42 CFR Part 93;

- Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins (within 30 days after UCI decides to begin an investigation), and be notified in writing of any new allegations, not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;
- Be interviewed during the investigation, have the opportunity to correct the recording or transcript, and have the corrected recording or transcript included in the record of the investigation;
- Have the committee interview during the investigation any witness who has been reasonably identified by the respondent as having information on relevant aspects of the investigation, have the recording or transcript provided to the witness for correction, and have the corrected recording or transcript included in the record of investigation; and
- Receive a copy of the draft investigation report and, concurrently, a copy of, or supervised access to the evidence on which the report is based, and be notified that any comments must be submitted within 30 days of the date on which the copy was received and that the comments will be considered by the institution and addressed in the final report.

The respondent should be given the opportunity to admit that research misconduct occurred and that he/she committed the research misconduct. With the advice of the RIO and institutional legal counsel, the Vice Chancellor for Research may terminate the institution's review of an allegation that has been admitted if the institution's acceptance of the admission and any proposed settlement is approved by ORI or the sponsor.

D. Deciding Official

The VCR will receive the inquiry report and after consulting with the RIO, decide whether an investigation is warranted. Any finding that an investigation is warranted must be made in writing by the VCR and must be provided to ORI or the sponsor, if applicable, together with a copy of the inquiry report, within 30 days of the finding. If it is found that an investigation is not warranted, the VCR and the RIO will ensure that detailed documentation of the inquiry is retained for at least 7 years after termination of the inquiry, so that ORI, or the sponsoring agency, may assess the reasons why the institution decided not to conduct an investigation.

The VCR will receive the investigation report and, after consulting with the RIO and other appropriate officials, decide the extent to which this institution accepts the findings of the investigation and, if research misconduct is found, decide what, if any, institutional administrative actions are appropriate. The VCR shall ensure that the final

investigation report, the findings of the VCR and a description of any pending or completed administrative action are provided to ORI or the sponsor, if applicable.

IV. General Principles

A. Responsibility to Report Misconduct

All institutional members will report observed, suspected, or apparent research misconduct to the RIO, Department Head, or other Administrator. Any official who receives an allegation of research misconduct must report it immediately to the RIO. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the RIO at (949) 824-5796 to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem. At any time, an institutional member may have confidential discussions and consultations about concerns of possible misconduct with the RIO, Department Head, or other Administrator and will be counseled about appropriate procedures for reporting allegations.

B. Cooperation with Research Misconduct Proceedings

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

C. Confidentiality

The RIO shall (1) limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding. The RIO should use written confidentiality agreements or other mechanisms to ensure that the recipient does not make any further disclosure of identifying information.

If the case does not proceed to an investigation, the documents all remain confidential. The Office of the Vice Chancellor for Research will retain records of the case for seven years, and will continue to treat both electronic and paper documents as confidential.

Committee members are expected to maintain long-term confidentiality regarding the case, including the nature of their discussions, as well as materials that they reviewed.

D. Protecting complainants, witnesses, and committee members

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

E. Protecting the Respondent

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

During the research misconduct proceeding, the RIO is responsible for ensuring that respondents receive all the notices and opportunities provided for in 42 CFR Part 93 and the policies and procedures of the University.

The Chair or Dean may contact the respondent(s) to suggest resources for advice or counseling, particularly if there are any concerns that the individual(s) might harm themselves or others.

Due to the confidential nature of the information that they access during the case, committee members will be asked to recuse themselves from any vote, evaluation, or other decision concerning the respondents, as this may constitute a conflict of interest.

F. Interim Administrative Actions and Notification of Special Circumstances

Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal funds and equipment. In the event of such a threat, the RIO will, in consultation with other University officials and ORI or the sponsor, if applicable, take appropriate interim action to protect against any such threat. Interim action might include additional monitoring of the research process and the handling of federal funds and equipment, reassignment of personnel or of the responsibility for the handling of federal funds and equipment, additional review of research data and results or delaying publication. The RIO shall, at any time during a research misconduct proceeding, notify ORI or the sponsor immediately if he/she has reason to believe that any of the following conditions exist:

- Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
- Federally funded resources or interests are threatened;

- Research activities should be suspended;
- There is a reasonable indication of possible violations of civil or criminal law;
- Federal action is required to protect the interests of those involved in the research misconduct proceeding;
- The research misconduct proceeding may be made public prematurely; or
- The research community or public should be informed.

V. Procedures for Conducting the Assessment and Inquiry

A. Preliminary Assessment of Allegations

Upon receiving an allegation of research misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified. An inquiry must be conducted if these criteria are met.

The assessment period should be brief, preferably concluded within a week. In conducting the assessment, the RIO need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified. The RIO shall, on or before the date on which the respondent is notified of the allegation, obtain custody of, inventory, and sequester all research records and evidence needed to conduct the research misconduct proceeding, as provided in paragraph C. of this section.

B. Initiation and Purpose of the Inquiry

If the RIO determines that the criteria for an inquiry are met, he or she will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.

When an allegation of research misconduct proceeds to the inquiry stage, administrators with a need to know include the Executive Vice Chancellor and Provost, the Dean, the Department Chair and, if the respondent is a graduate student or postdoctoral scholar, the Dean of the Graduate Division.

C. Notice to Respondent; Sequestration of Research Records

At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, they must be notified in writing. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. For computerized data, the inquiry committee will need access, if possible, to the original files.

D. Appointment of the Inquiry Committee

The RIO, in consultation with other institutional officials as appropriate, will appoint an inquiry committee and committee chair within 10 days of the initiation of the inquiry or as soon thereafter as practical. The inquiry committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. The respondent will be notified of the proposed committee membership in order to have an opportunity to object to a proposed member based upon a personal, professional, or financial conflict of interest. Any objections to the committee membership must be submitted within 5 calendar days. The University makes the final determination of whether a conflict exists.

E. Charge to the Committee and First Meeting

The RIO will prepare a charge for the inquiry committee that:

- Sets forth the time for completion of the inquiry;
- Describes the allegations and any related issues identified during the allegation assessment;
- States that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the respondent, complainant and key witnesses, to determine whether an investigation is warranted, not to determine whether research misconduct definitely occurred or who was responsible;
- States that an investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct and, (2) the allegation may have substance, based on the committee's review during the inquiry.

- Informs the inquiry committee members that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy and the guidelines established by ORI.

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

F. Inquiry Process

The inquiry committee will normally interview the complainant, the respondent, and key witnesses as well as examining relevant research records and materials. If there are multiple respondents, each one should be interviewed separately; one respondent may not act as coordinator or spokesperson for the group. The inquiry committee will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether an investigation is warranted based on the criteria in this policy.

The scope of the inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct or conducting exhaustive interviews and analyses. However, if an admission of research misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, the institution shall promptly consult with ORI or the sponsoring agency, if applicable, to determine the next steps that should be taken. See Section III.C.

G. Time for Completion

The inquiry, including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted, must be completed within 60 calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the inquiry record must include documentation of the reasons for exceeding the 60-day period. The respondent will be notified of the extension.

VI. The Inquiry Report

A. Elements of the Inquiry Report

A written inquiry report must be prepared that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of research misconduct; (3) the funding agency support, including, for example, grant numbers,

grant applications, contracts and publications listing such support; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent.

Modifications should be made as appropriate in consultation with the RIO and the inquiry committee.

B. Notification to the Respondent and Opportunity to Comment

The RIO shall notify the respondent whether the inquiry found an investigation to be warranted, include a copy of the draft inquiry report for comment, and include a copy of the institution's policies and procedures on research misconduct and reference to 42 CFR Part 93. Any comments that are submitted will be attached to the final inquiry report. Based on the comments, the inquiry committee may revise the draft report as appropriate and prepare it in final form. The committee will deliver the final report to the RIO.

C. Institutional Decision and Notification

1. Decision by Deciding Official (Vice Chancellor for Research)

The RIO will transmit the final inquiry report and any comments to the Vice Chancellor for Research (VCR), who will determine in writing whether an investigation is warranted. The inquiry is completed when the VCR makes this determination.

2. Notification to ORI or Sponsoring Agency

Within 30 calendar days of the VCR's decision that an investigation is warranted, the RIO will provide ORI or the sponsoring agency with the VCR's written decision and a copy of the inquiry report. The RIO will also notify those institutional officials who need to know of the VCR's decision. The RIO must provide the following information to the agency upon request: (1) the institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges to be considered in the investigation.

3. Documentation of Decision Not to Investigate

If the VCR decides that an investigation is not warranted, the RIO shall secure and maintain for 7 years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment of the reasons why an investigation was not conducted. These documents must be provided to ORI or the sponsor, if applicable, upon request.

VII. Procedures for Conducting the Investigation

A. Initiation and Purpose

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

B. Notifying Funding Agency and Respondent; Sequestration of Research Records

On or before the date on which the investigation begins, the RIO must: (1) notify ORI or the sponsor, as applicable, of the decision to begin the investigation and provide a copy of the inquiry report; and (2) notify the respondent in writing of the allegations to be investigated. The RIO must also give the respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.

The RIO will, prior to notifying respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the research misconduct proceeding that were not previously sequestered during the inquiry. Where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. The need for additional sequestration of records for the investigation may occur for any number of reasons, including the institution's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

C. Appointment of the Investigation Committee

The RIO, in consultation with other institutional officials as appropriate, will appoint an investigation committee and the committee chair within 10 days of the beginning of the investigation or as soon thereafter as practical. The investigation committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts

of interest with those involved with the investigation and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the respondent and complainant and conduct the investigation. Individuals appointed to the investigation committee may also have served on the inquiry committee. When necessary to secure the required expertise or to avoid conflicts of interest, the RIO may select committee members from outside the University. The respondent will be notified of the proposed committee membership in order to have an opportunity to object to a proposed member based upon a personal, professional, or financial conflict of interest. Any objections to the committee membership must be submitted within 5 calendar days. The University makes the final determination of whether a conflict exists.

D. Charge to the Committee and the First Meeting

1. Charge to the Committee

The RIO will define the subject matter of the investigation in a written charge to the committee that:

- Describes the allegations and related issues identified during the inquiry;
- Identifies the respondent;
- Informs the committee that it must conduct the investigation as prescribed in paragraph E. of this section;
- Defines research misconduct;
- Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;
- Informs the committee that in order to determine that the respondent committed research misconduct it must find that a preponderance of the evidence establishes that: (1) research misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the research misconduct is a significant departure from accepted practices of the relevant research community; and (3) the respondent committed the research misconduct intentionally, knowingly, or recklessly; and
- Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and the ORI guidelines.

2. First Meeting

The RIO will attend the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this policy and reference to 42 CFR Part 93. The RIO will be present or available throughout the investigation to advise the committee as needed.

E. Investigation Process

The investigation committee and the RIO must:

- 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 each allegation;
- Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
- 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 record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and
- Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion.

F. Time for Completion

The investigation is to be completed within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to ORI or the sponsor, if applicable. However, if the RIO determines that the investigation will not be completed within this 120-day period, he/she will submit to ORI or the sponsor, as applicable, a written request for an extension, setting forth the reasons for the delay. The RIO will ensure that periodic progress reports are filed, if the request for an extension is granted.

VIII. The Investigation Report

A. Elements of the Investigation Report

The investigation committee and the RIO are responsible for preparing a written draft

report of the investigation that:

- Describes the nature of the allegation of research misconduct, including identification of the respondent. The respondent's c.v. or resume may be included as part of the identification.
- Describes and documents the funding support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing such support;
- Describes the specific allegations of research misconduct considered in the investigation;
- Includes the institutional policies and procedures under which the investigation was conducted, unless those policies and procedures were provided to the agency previously;
- Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
- Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must: (1) identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by a preponderance of the evidence that he or she did not engage in research misconduct because of honest error or a difference of opinion; (3) identify the specific funding support, if applicable; (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 other federal agencies.

B. Comments on the Draft Report and Access to Evidence

1. Respondent

The RIO must give the respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed 30 days from the date he/she received the draft report to submit comments to the RIO. The respondent's comments must be included and considered in the final report.

2. Confidentiality

In distributing the draft report, or portions thereof, the RIO will inform the

recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may require that the recipient sign a confidentiality agreement.

C. Decision by Deciding Official (Vice Chancellor for Research)

The RIO will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent's comments are included and considered, and transmit the final investigation report to the VCR, who will determine in writing: (1) whether the institution accepts the investigation report, its findings, and the recommended institutional actions; and (2) the appropriate institutional actions in response to the accepted findings of research misconduct. If this determination varies from the findings of the investigation committee, the VCR will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the VCR may return the report to the investigation committee with a request for further fact-finding or analysis.

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

D. Appeals

Neither the findings of an Investigation Committee, nor the RIO's determination regarding Research Misconduct, shall be subject to further appeal by any party.

E. Notice to Sponsoring Agency of Institutional Findings and Actions

Unless an extension has been granted, the RIO must, within the 120-day period for completing the investigation, submit the following to ORI or the sponsor, as applicable: (1) a copy of the final investigation report with all attachments; (2) a statement of whether the University accepts the findings of the investigation report; (3) a statement of whether the University found misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the respondent.

F. Maintaining Records for Review

The RIO must maintain and provide to ORI or the sponsor, if applicable, upon request the records of research misconduct proceedings. Unless custody has been transferred to the sponsor or the University has been advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a

secure manner for 7 years after completion of the proceeding involving the research misconduct allegation. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by ORI or the sponsor to carry out its review of an allegation of research misconduct or of the University's handling of such an allegation.

IX. Completion of Cases; Reporting Premature Closures

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The RIO must notify the sponsor in advance if there are plans to close a case at the inquiry or investigation stage on the basis that respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except: (1) closing of a case at the inquiry stage on the basis that an investigation is not warranted; or (2) a finding of no misconduct at the investigation stage, which must be reported to ORI or the sponsor, as prescribed in this policy.

X. Institutional Administrative Actions

If the VCR determines that research misconduct is substantiated by the findings, the appropriate Vice Chancellor (depending on the respondent's faculty appointment, employment and/or student status) will decide on the appropriate actions to be taken. The administrative actions may include:

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

XI. Other Considerations

A. Termination or Resignation Prior to Completing Inquiry or Investigation

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

University's responsibilities under 42 CFR Part 93.

If the respondent, without admitting to the misconduct, elects to resign his or her position after the University receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

B. Restoration of the Respondent's Reputation

Following a final finding of no research misconduct, including concurrence by ORI or the sponsor, if applicable, the RIO will, at the request of the respondent, undertake all reasonable and practical efforts to restore the respondent's reputation. The RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research misconduct was previously publicized, and expunging all reference to the research misconduct allegation from the respondent's personnel file. Any University actions to restore the respondent's reputation should first be approved by the appropriate Vice Chancellor.

C. Protection of the Complainant, Witnesses and Committee Members

During the research misconduct proceeding and upon its completion, regardless of whether the institution or the sponsor determines that research misconduct occurred, the RIO will undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The VCR will determine, after consulting with the RIO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the VCR approves.

D. Allegations Not Made in Good Faith

If relevant, the VCR will determine whether the complainant's allegations of research misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the VCR determines that there was an absence of good faith, the appropriate Vice Chancellor or the Graduate Dean (depending on the complainant's faculty appointment, employment and/or student status) will determine whether any administrative action should be taken against the person who failed to act in good faith.

REFERENCES

1. University of California Policy on Integrity in Research, Academic Personnel Manual 190, June 19, 1990.
<http://www.ucop.edu/acadadv/acadpers/apm/apm-190-b.pdf>
2. UC Irvine Research Policy Library
<http://www.research.uci.edu/researchpolicies.htm>
3. Federal Policy on Research Misconduct
http://ori.hhs.gov/policies/fed_research_misconduct.shtml

Office of Science and Technology Policy references on Scientific Integrity

<http://www.whitehouse.gov/administration/eop/ostp/library/scientificintegrity>

Below are regulations from primary federal agencies that fund UCI research:

- a. National Science Foundation Policy on Research Misconduct, Title 42, Code of Federal Regulations, Part 689, revised October 1, 2002.
http://www.access.gpo.gov/nara/cfr/waisidx_02/45cfr689_02.html
 - b. Public Health Service, including National Institutes for Health, Policies on Research Misconduct, Final Rule. 42, Code of Federal Regulations, Parts 50 and 93, effective May 17, 2005. http://ori.hhs.gov/documents/FR_Doc_05-9643.shtml.
 - c. National Aeronautics and Space Administration Investigation of Research Misconduct, 14 CFR Part 1275, effective July 14, 2004.
<http://law.justia.com/cfr/title14/14-5.0.1.1.42.html>
 - d. National Endowment for the Humanities Research Misconduct Policy, effective November 2001. <http://www.neh.gov/grants/guidelines/researchmisconduct.html>
4. University Policy on Faculty Code of Conduct. Academic Personnel Manual 015.
<http://www.ucop.edu/acadadv/acadpers/apm/apm-015.pdf>
 5. University Policy on Faculty Conduct and the Administration of Discipline. Academic Personnel Manual 016. <http://www.ucop.edu/acadadv/acadpers/apm/apm-016.pdf>
 6. University of California Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy).
<http://ucwhistleblower.ucop.edu/>
 7. University of California Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints (Whistleblower Protection Policy).

http://atyourservice.ucop.edu/employees/policies_employee_labor_relations/personnel_policies/pol01.html

8. UCI Guidelines for Reporting Improper Activities and for Filing Complaints of Retaliation for Reporting Improper Activities. Administrative Policy and Procedures 700-06.
<http://www.policies.uci.edu/adm/procs/700/700-06.html>
9. University Policy on Non-Senate Academic Appointees/Grievances. Academic Personnel Manual 140.
<http://www.ucop.edu/acadadv/acadpers/apm/apm-140.pdf>
10. University Policy on Postdoctoral Scholars. Academic Personnel Manual 390.
<http://www.ucop.edu/acadadv/acadpers/apm/apm-390.pdf>
11. University Policy on Non-Senate Academic Appointees/Corrective Action and Dismissal. Academic Personnel Manual 150.
<http://www.ucop.edu/acadadv/acadpers/apm/apm-150.pdf>
12. UCI Personnel Policies for Staff Members, Corrective Action
<http://www.policies.uci.edu/pps/pps62.html>
<http://www.policies.uci.edu/pps/pps63.html>
13. University Policy on Student Conduct and Discipline. Policies and Procedures Applying to Campus Activities, Organizations, and Students, Section 100.00, revised February 2011.
<http://www.ucop.edu/ucophome/coordrev/ucpolicies/aos/uc100.html>

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