

Appendix A: Procedures for Responding to Allegations of Research Misconduct

These procedures are designed to provide a fair hearing, to discourage frivolous or malicious Allegations, and to take appropriate action when Research Misconduct has been alleged. Capitalized terms used in these procedures shall have the meanings assigned to them in the Research Misconduct Policy.

A Research Misconduct proceeding starts when an Allegation is made to an Institutional Official.

1. REPORTING RESEARCH MISCONDUCT

1.1 Any Covered Individual who has reason to believe that another Covered Individual has engaged in Research Misconduct must report their Allegation to an Institutional Official.

1.2 The Allegation may be made anonymously but must include sufficient factual detail to permit a determination that an Inquiry is warranted. A vague Allegation that Research Misconduct is occurring or has occurred is insufficient. For example, the Allegation should identify the person or persons who are believed to have engaged in Research Misconduct, the time period during which such misconduct has occurred, the nature of the Research Misconduct, and documentation (or where it can be found) or other evidence (including names of witnesses, if any) that can be consulted to verify the Allegation.

1.3 The Institutional Official who receives the Allegation must document in writing: the date and time of receipt, the name of the Complainant (if the Complainant agrees to be identified), the substance of the Allegation, and any supporting documentation or evidence that is provided by the Complainant.

1.4 The Institutional Official must forward the documentation of the Allegation to the Research Integrity Officer as soon as possible, but no later than three (3) business days after receipt by the Institutional Official.

2. THE PRELIMINARY ASSESSMENT OF ALLEGATIONS OF RESEARCH MISCONDUCT

The Research Integrity Officer shall conduct a preliminary assessment of the Allegation by reviewing the Allegation, supporting documentation and/or witness statements to determine if the Allegation has enough substance to move forward to an Inquiry. The Research Integrity Officer shall complete the preliminary assessment promptly. If the preliminary assessment requires more than 10 days to complete, the Research Integrity Officer shall document and record the reasons as to the delay and complete the preliminary assessment as promptly thereafter as possible.

2.1 The preliminary assessment shall be limited to determining:

- Whether the Complainant has alleged acts or omissions that fall within the definition of Research Misconduct;
- Whether the relevant research or research-related activity is of the type covered by the Research Misconduct Policy and these procedures; and
- Whether the Allegation is sufficiently credible and specific so that potential evidence of Research Misconduct may be identified.

2.2 If the answers to the preliminary assessment are affirmative, the Research Integrity Officer shall refer the matter for an Inquiry. If the answers to the preliminary assessment are not affirmative, all proceedings shall terminate, and the Research Integrity Officer shall notify the Complainant, the Respondent(s), and such Agencies as may be required by applicable law or regulation, that there is insufficient evidence for a finding of Research Misconduct.

2.3 Except as may otherwise be prescribed by applicable law, confidentiality must be maintained for any records or evidence from which research subjects might be identified. Disclosure of Research Misconduct is limited to those who have a need to know to carry out a Research Misconduct proceeding. The University may be required by applicable law or regulation to disclose the identity of Respondent(s) and Complainants to Agencies.

3. THE INQUIRY INTO ALLEGATIONS OF RESEARCH MISCONDUCT

The purpose of the Inquiry is to determine whether there is sufficient substance to the Allegation to warrant an Investigation. The purpose of the Inquiry is not to reach a final decision about whether Research Misconduct occurred or who was responsible.

3.1 Initiation of Inquiry

- Sequestration of records. The Research Integrity Officer shall, on or before the date on which the Respondent(s) is notified or the Inquiry begins, whichever is earlier, promptly take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the Research Misconduct proceeding. The records and evidence will be inventoried and sequestered in a secure manner. Where the research records or evidence encompass scientific instruments shared by several users, custody may be limited to copies of the data or evidence on such instruments.
- The Inquiry Committee. The VCRE shall appoint a committee to conduct the Inquiry ("Inquiry Committee") from a pool of institutional faculty/staff. The Inquiry Committee should consist of at least three (3) individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence

and issues related to the Allegation. The Inquiry Committee shall interview the principals and key witnesses, with the option to record these individuals and conduct the Inquiry. The Research Integrity Officer shall take precautions to ensure that individuals responsible for carrying out any part of the Inquiry do not have unresolved personal, professional, or financial conflicts of interest with the Complainant, Respondent(s), or witnesses. If necessary, the VCRE or Research Integrity Officer will seek additional expertise for the Inquiry Committee that may advise the Inquiry Committee but will not vote or participate in interviews. The experts can be from inside or outside of UNC Greensboro.

- Notice to the Respondent(s). At the time of or before beginning an Inquiry, the Research Integrity Officer shall make a good faith effort to notify in writing the Respondent(s) that an Inquiry has begun or will begin; the procedures that will be followed; the membership of the Inquiry Committee; and the nature of the Allegation. If the Inquiry subsequently identifies additional Respondents, the Research Integrity Officer must notify them.
- Notice to the Complainant. At the time of or before beginning an Inquiry, the Research Integrity Officer shall make a good faith effort to notify in writing the Complainant, if any, that an Inquiry has begun or will begin and the procedures that will be followed.
- Objections to the Inquiry Committee Members. The Respondent(s) has five (5) days to challenge, in writing, the Inquiry Committee's membership based on bias or conflict of interest. The Research Integrity Officer will determine whether to replace the challenged member and will inform the Respondent(s) of the decision, in writing, within five (5) days of receiving the challenge.
- Confidentiality. To the maximum extent possible, and within requirements of the law and regulations, the Research Integrity Officer must take all reasonable steps to preserve confidentiality of all persons involved except for sponsoring Agencies notified of the Research Misconduct proceedings where applicable. This may include documenting the person's permission to be named or their information to be shared.

4. IMMEDIATE NOTIFICATION OF AGENCIES

If at any time the Research Integrity Officer or Inquiry Committee has reason to believe that extenuating circumstances exist that warrant contacting an Agency, they shall immediately inform the VCRE, who shall notify the appropriate Agency. Examples of such circumstances include, but are not limited to, the following:

- The health or safety of the public is at risk, including an immediate need to protect human or animal participants.
- Agency 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.
- There is reason to believe that the Inquiry may be made public prematurely, so that the Agency may take appropriate steps to safeguard evidence and protect the rights of those involved.
- The research community or public should be informed.

5. DETERMINATIONS OF THE INQUIRY COMMITTEE

If the Inquiry Committee concludes that the Allegation warrants an Investigation, it shall prepare a written report that summarizes all pertinent information including the determination. If the Inquiry Committee determines that an Investigation is not warranted, it shall prepare sufficiently detailed documentation of the Inquiry to inform a later assessment by third parties of the reasons for not conducting an Investigation. Such report shall identify any other actions the Inquiry Committee feels should be taken in connection with the Allegation. All documentation of the decision not to further investigate an allegation will be secured and maintained by the Research Integrity Officer for seven (7) years after the termination of the Inquiry.

- The Inquiry Report. Within 30 days of the Inquiry Committee's determination, a written report of the Inquiry will be prepared that includes the following information: 1) the name and position of the Respondent(s); 2) a description of the Allegation(s) of Research Misconduct; 3) identification of the source of the external support (for example the Public Health Service (PHS) and/or other), including, for example, grant numbers, grant applications, contracts and publications listing external 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(s) or Complainant.
- Notice to the Respondent(s). The Research Integrity Officer must notify the Respondent(s) whether the Inquiry found that an Investigation is warranted. The notice must include a copy of the Inquiry Committee report and a copy of or reference to the Research Misconduct Policy. The Research Integrity Officer will provide the Respondent(s) with a copy of the Inquiry Committee draft report for review and comment. Within 14 calendar days of receipt of the draft report, the Respondent(s) will provide his or her comments, if any, to the Inquiry Committee for its consideration.

- Notice to the Complainant. The Research Integrity Officer may notify the Complainant who made the Allegation whether the Inquiry found that an Investigation is warranted. The Research Integrity Officer may provide relevant portions of the Inquiry Committee report.
- Notice to DHHS ORI and other appropriate Agencies. If an Investigation is warranted, the VCRE will notify DHHS ORI of the need for an Investigation within 30 days of the inquiry report and will notify DHHS ORI when the Investigation is initiated. This notification will be made in writing and be provided together with a copy of the inquiry report. If an Inquiry is terminated before its completion, a report of the planned termination, including the reasons for such an action, should be made to DHHS ORI and any other Agencies that require it.

Upon request from DHHS ORI, the Research Integrity Officer will provide the following information: 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 consider in the Investigation.

The Inquiry Committee will forward the Inquiry Committee report to the Research Integrity Officer, who shall notify any Agencies as may be required by applicable laws or regulations. All aspects of the Inquiry (including the final inquiry report and decision on whether an Investigation is warranted) must be completed within 60 days of the commencement of the Inquiry. If the Inquiry Committee is unable to complete its work in 60 days, it shall request an extension in writing from the VCRE. This request must include documentation of the reasons for exceeding the 60-day period. If Agencies are involved, the Research Integrity Officer may need to request an extension from the Agencies.

6. THE INVESTIGATION OF ALLEGATIONS OF RESEARCH MISCONDUCT.

The purpose of the Investigation is to explore in detail the Allegation, to examine the evidence in depth, and to determine specifically whether Research Misconduct has been committed, by whom, to what extent, and make recommendations with respect to imposition of disciplinary sanctions. The Research Integrity Officer will ensure that the Investigation Committee carry it through to completion and diligently pursue all significant issues related to Allegations.

The Investigation will also determine whether there are additional instances of possible Research Misconduct that would justify broadening the scope beyond the initial Allegation.

The Investigation must begin within 30 days of an inquiry report that determines an Investigation is warranted. All aspects of the Investigation must be completed within 120 days of its commencement. If the Investigation Committee is unable to complete the Investigation in 120 days, it shall request an extension in writing from the VCRE. For Investigations that involve Agencies, the Research Integrity Officer may need to request an extension from the Agencies.

- Appointing the Investigation Committee. The VCRE shall appoint the Investigation Committee. The Investigation Committee should consist of at least three (3) individuals who have the necessary expertise to evaluate the evidence and issues related to the Allegation, interview the principals and key witnesses, and conduct the Investigation. The VCRE shall take precautions to ensure that individuals responsible for carrying out any part of the Investigation do not have unresolved personal, professional, or financial conflicts of interest with the Complainant, Respondent(s), or witnesses. If needed, the VCRE may seek additional expertise for the Investigation Committee, who will advise the Investigation Committee but not vote or participate in interviews. The experts can be from inside or outside of UNC Greensboro.
- Notice of Commencement of the Investigation. The Research Integrity Officer will notify the Respondent(s) that an Investigation is being undertaken, the nature of the Allegation, as well as the composition of the Investigation Committee, and the procedures that will be followed. If the Investigation subsequently identifies new/additional Allegations, the Research Integrity Officer must provide a written notice to the Respondent(s) within a reasonable amount of time of deciding to pursue any Allegations not addressed during the Inquiry or in the initial notice of the Investigation. If the Investigation subsequently identifies additional Respondents, the Research Integrity Officer will notify them in writing within a reasonable amount of time.
- Notice of Commencement of the Investigation to DHHS ORI. On or before the date that the Research Integrity Officer sends the Notice of Commencement of the Investigation, the Research Integrity Officer will notify the DHHS ORI of the decision to begin the Investigation and provide DHHS ORI a copy of the Inquiry report (see Section 11).

7. CONDUCTING THE INVESTIGATION

7.1 Confidentiality.

To the maximum extent possible, and within requirements of the law and regulations, the Investigation Committee and the Research Integrity Officer must preserve confidentiality of all persons involved except for Agencies notified of the Research Misconduct proceedings.

7.2 Interviewing Individuals

The Investigation Committee may interview any individual it identifies as having information or evidence relevant to the Investigation Committee's determinations, including, but not limited to, the Complainant and the Respondent(s). These interviews may be recorded.

7.3 Pursuing Leads.

The Investigation Committee shall pursue diligently all significant issues and leads discovered that are determined relevant to the Investigation, including any evidence of additional instances of possible Research Misconduct, and continue the Investigation to completion.

7.4 Immediate Notification of Agencies.

If at any time the Investigation Committee has reason to believe that any of the following circumstances exist, it shall immediately inform the Research Integrity Officer, who shall notify the appropriate Agencies:

- The health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
- Agency 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.
- There is reason to believe that the Research Misconduct proceeding may be made public prematurely, so that Agencies may take appropriate steps to safeguard evidence and protect the rights of those involved.
- The research community or public should be informed.

8. BURDEN OF PROOF

The University bears the burden of proving, based on the Preponderance of the Evidence, that Research Misconduct occurred. The destruction, absence of, or a Respondent's failure to provide research records adequately documenting the questioned research shall be considered evidence of Research Misconduct, provided the University establishes by a Preponderance of the Evidence that:

- 8.1 A Respondent intentionally, knowingly, or recklessly had research records and destroyed them, or
- 8.2 Had the opportunity to maintain the research records but did not do so, or
- 8.3 Maintained the research records and failed to produce them in a timely manner, or

8.4 A Respondent's conduct constitutes a significant departure from accepted practices of the relevant research community.

8.5 A Respondent has the burden of going forward with, and the burden of proving, by a Preponderance of the Evidence, any and all affirmative defenses raised. In determining whether the University has carried the burden of proof, the Investigation Committee shall give due consideration to admissible, credible evidence of honest error or difference of opinion presented by a Respondent.

9. CONCLUDING THE INVESTIGATION & THE FINAL INVESTIGATION REPORT

Upon the conclusion of the Investigation, the Investigation Committee shall prepare, in writing, a final report ("Investigation Report") for the VCRE that shall:

9.1 Describe the nature of the Allegation;

9.2 If applicable, describe and document the support, including, for example, any grant numbers, grant applications, contracts, and publications listing such support;

9.3 Describe the specific Allegation for consideration in the Investigation;

9.4 Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody but not reviewed;

9.5 For each separate Allegation identified during the Investigation, provide a finding as to whether Research Misconduct did or did not occur, and if so:

9.5.1 Identify whether the Research Misconduct was Falsification, Fabrication, or Plagiarism, and if it was intentional, knowing, or reckless;

9.5.2 Summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the Respondent(s);

9.5.3 If applicable, identify the specific Agency support;

9.5.4 Identify whether any publications need correction or retraction;

9.5.5 Identify the person(s) responsible for the Research Misconduct; and

9.5.6 List any current support or known applications or proposals for support that the Respondent(s) has pending with Agencies.

If a majority of the Investigation Committee finds that the individual has violated the Research Misconduct Policy, it shall recommend, in writing, an appropriate course of action to the VCRE, which shall include appropriate sanctions and adequate steps to ensure that the University meets its obligations, if any, to external Agencies affected by the violation, co- investigators and co-authors, funding Agencies and other research sponsors, professional journals, and relevant clients. Any individual that does not agree with the majority can record their comments in a minority report that will be filed with the official proceeding records.

The Respondent(s) and Complainant shall have an opportunity to review the draft Investigation Report and to provide written comments, which the Investigation Committee shall consider and include, if warranted, in the final Investigation Report. The Respondent(s) will have 30 days from the date the draft Investigation Report is provided to them to submit written comments to the Investigation Committee. The findings of the Investigation Report should consider the comments from the Respondent(s) and Complainant, in addition to all the other evidence.

All investigative information, including relevant research records, records of interviews and the transcripts or recordings of such interviews, and all records of the Research Misconduct proceedings must be maintained by the Research Integrity Officer and provided to HHS ORI upon request.

Unless custody has been transferred to HHS ORI or the Research Integrity Officer has been advised in writing by HHS ORI that the records no longer need to be retained, records of Research Misconduct proceedings must be maintained in a secure manner for seven (7) years after completion of such proceedings or the completion of any Public Health Service (PHS) proceeding involving an Allegation. The Research Integrity Officer is also responsible for providing any information, documentation, research records, evidence or clarification requested by HHS ORI to carry out its review of an Allegation or of the University's handling of an Allegation.

It is expected that all Inquiries and Investigations will be carried through to completion and all significant issues will be pursued diligently. The Research Integrity Officer must notify HHS ORI in advance if there are plans to close a case at the Inquiry, or Investigation on the basis that the Respondent(s) has admitted guilt, a settlement with the Respondent(s) has been reached, or for any other reason, except: 1) closing the case at the Inquiry stage on the basis that an Investigation was not warranted; or 2) a finding of no Research Misconduct at the Investigation stage, which must be reported to HHS ORI, as described in the Research Misconduct Policy.

10. NOTICE TO HHS ORI OF INSTITUTIONAL FINDINGS AND ACTIONS

Unless an extension is granted, the Research Integrity Officer must, within the 120-day period for completing the Investigation, submit the following to the HHS ORI: 1) a copy of the final Investigation Report with all attachments; 2) a statement of whether the University accepts the findings of the final Investigation Report; 3) a statement of whether the University found

Research Misconduct and, if so, who committed the Research Misconduct; and 4) a description of any pending or completed administrative actions against the Respondent(s).

11. COOPERATION AND REPORTING TO HHS ORI

The Research Integrity Officer has the lead responsibility for ensuring that the University fully and continuously cooperates with HHS ORI during its oversight review and any subsequent administrative hearings or appeals, including providing all research records and evidence under the University's control, custody, or possession and access to all persons within its authority necessary to develop a complete record of relevant evidence.

The Research Integrity Officer also agrees to: 1) notify HHS ORI of the decision to begin an Investigation on or before the date the Investigation starts; 2) provide written findings that an Investigation is warranted and a copy of the Inquiry report within 30 days of the date on which the finding is made; and 3) within 120 days of beginning an Investigation, or after additional days granted by HHS ORI, provides HHS ORI with the final Investigation Report, a statement of whether the University accepts the Investigative findings, a statement of whether or not the University found Research Misconduct and, if so, who committed it and a description of any pending or completed administrative actions against the Respondent(s).

12. POST-INVESTIGATION PROCEEDINGS

Where an Investigation concludes no Research Misconduct occurred:

12.1 The University shall make all reasonable and practical efforts, if requested and as appropriate, to protect or restore the reputation of any Respondent(s) determined by the Investigation Committee to have not been engaged in Research Misconduct.

12.2 The University shall make all reasonable and practical efforts to protect or restore the position and reputation of any Complainant, witness, or Investigation Committee member and to counter potential or actual retaliation against them.

13. ADMINISTRATIVE AND DISCIPLINARY ACTIONS

13.1. Seriousness of the Research Misconduct

In deciding what administrative or disciplinary actions are appropriate, the VCRE should consider the seriousness of the Research Misconduct, including, but not limited to, the degree to which the Research Misconduct was knowing, intentional, or reckless; was an isolated event or part of a pattern; or had significant impact on the research record, research subjects, other researchers, institutions, or the public welfare.

13.2 Possible Administrative and Disciplinary Actions

Administrative and disciplinary actions include but are not limited to: appropriate steps to correct the research record; letters of reprimand; the imposition of special certification or assurance requirements to ensure compliance with applicable regulations or terms of an award; suspension or termination of an active award; written warning; demotion; suspension; salary reduction; dismissal; or other serious discipline according to the appropriate policies applicable to students, faculty or staff. With respect to administrative actions or discipline imposed upon faculty and staff, the University must comply with all relevant personnel policies and laws. With respect to administrative actions or discipline imposed upon students, the University must comply with all relevant student policies and codes.

13.3 If an Investigation concludes Research Misconduct has occurred, the violation may be addressed in various ways as stated below.

13.3.1 Respondent is a University Faculty Member

In the case of a Respondent who is a University faculty member, the VCRE, together with the Provost and appropriate Dean(s), in consultation with the Office of Institutional Integrity and General Counsel, if needed, will determine what administrative and disciplinary sanctions to implement. The VCRE shall document the recommended sanction(s) and forward it to the Chair(s) of the Respondent's department(s).

13.3.2 Respondent is EHRA Non-Faculty or SHRA Employee

In the case of a Respondent who is EHRA non-faculty or SHRA Employee, the Research Integrity Officer, Office of Human Resources, and the Office of Institutional Integrity and General Counsel, if needed, will determine what administrative and disciplinary sanctions to implement. The Research Integrity Officer shall document the recommended sanction(s) and Human Resources will forward it to the direct supervisor(s) of the Respondent's department(s)/unit(s).

13.3.3 Respondent is a Student

In the case of a Respondent who is a student, the VCRE shall refer the Investigation Report to the Dean of Students, for appropriate administrative action, up to and including the imposition of discipline.

13.3.5 If the University believes that criminal or civil fraud violations may have occurred, the VCRE shall promptly refer the matter to the appropriate investigative body.