

 Research & Sponsored Programs UNIVERSITY OF DENVER	Office of Research and Sponsored Programs Policy Manual Misconduct In Research
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1. PURPOSE

The issue of misconduct in scholarly activity is a matter of serious concern to universities and other research institutions, individual faculty members, sponsors of research, and the general public. The University of Denver requires that intellectual honesty and the highest ethical standards in research be maintained and relies primarily on the acceptance of responsibility by each member of the University community to adhere to professional standards of conduct in all research activity. In cases where allegations of research misconduct are raised, expeditious fact-finding and objective peer review in a setting of procedural fairness is essential and should be characterized, at the minimum, by preservation of the relevant research record, prompt notification of the individual(s) who are the subject of the allegations, protection to the maximum extent possible of the confidentiality of both the respondent(s) and the complainant(s), and if appropriate, application of timely corrective and/or disciplinary actions, sanctions and/or penalties.

2. DEFINITIONS

- 2.1. **Fabrication** is making up data or results and recording or reporting them.
- 2.2. **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.
- 2.3. **Plagiarism** is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit. Plagiarism includes the unattributed verbatim or nearly verbatim copying of sentences and paragraphs from another's work that materially misleads the reader regarding the contributions of the author. It does not include the limited use of identical or nearly identical phrases that describe a commonly used methodology. Plagiarism does not include self-plagiarism or authorship or credit disputes, including disputes among former collaborators who participated jointly in the development or conduct of a research project. Self-plagiarism and authorship disputes do not meet the definition of research misconduct.
- 2.4. **Conflict of Interest** is a situation that has the potential to undermine the impartiality of a person because of the possibility of an intersection between the person's self-interest and professional interest. Thus, the party's responsibility to a second party may limit the party's ability to discharge its responsibility to a third-party. An unresolved personal, professional, or financial conflict of interest with the complainant, respondent or a witness held by those

- responsible for the misconduct proceedings can be a source of misconduct as well as a concern for impartiality in fulfilling the mission of the policies and procedures herein.
- 2.5. **Inquiry** is preliminary information-gathering and preliminary fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.
 - 2.6. **Investigation** is the formal development of a factual record and the examination of that record to determine if misconduct has occurred.
 - 2.7. **Research** is a systematic experiment, study, evaluation, demonstration, or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) by establishing, discovering, developing, elucidating, or confirming information or underlying mechanisms related to biological causes, functions or effects; diseases; treatments; or related matters to be studied. The scope includes, but is not limited to, all fields of science, engineering, mathematics, medicine, physiology and behavior, social sciences, economics, education, linguistics, and the humanities. Research also includes research training, applications for support of research or research training, or related research activities.
 - 2.8. **Sponsor** is an individual, company, government agency, academic institution, private organization or other organization that is responsible for oversight of the research project and is typically an entity that provides the financial resources for the research project.
 - 2.9. **The Vice Provost for Research** is responsible for overseeing research at the University, and as used in this policy, can refer to staff designated by the Vice Provost to perform certain duties in this policy.
 - 2.10. **Research Misconduct** is the fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scholarly community for proposing, conducting, reviewing, and/or reporting research. Research misconduct includes: (a) making knowingly false accusations of misconduct by another, (b) violating Institutional Review Board policies and procedures, or (c) willful failure to comply with federal and other requirements.
 - 2.11 **Intentionally** means to act with the aim of carrying out the act.
 - 2.12 **Knowingly** means to act with awareness of the act.
 - 2.13 **Recklessly** means to propose, perform, or review research, or report research results, with indifference to a known risk of fabrication, falsification, or plagiarism.
 - 2.14 **Allegation** means a disclosure of possible research misconduct through any means of communication and brought directly to the attention of a University official.
 - 2.15 **Assessment** means a consideration of whether an allegation of research misconduct falls within this policy and is sufficiently credible and specific so that potential evidence of research misconduct may be identified.
 - 2.16 **Complainant** means an individual who in good faith makes an allegation of research misconduct.
 - 2.17 **Respondent** means the individual against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.
 - 2.18 **Institutional Record** includes (a) the records that the University compiled or generated during the research misconduct proceeding, except records the University did not consider or rely on; (b) a single index listing all the research records and evidence that the institution compiled during the research misconduct proceeding, except records the institution did not consider or rely on; and (c) a general description of the records that were sequestered but not considered or relied on.

3. POLICY

This Policy is intended to comply with the requirements of 42 CFR Part 93, and any such requirements that are not set forth in this Policy (or that become adopted by the United States Department of Health and Human Services (HHS) in the future) are hereby incorporated by reference as if fully set forth in this Policy. To the extent a research misconduct proceeding involves research that is not federally supported or that is supported by a federal agency other than the Public Health Service, deviations to the requirements of this policy may be implemented accordingly with the approval of the Vice Provost for Research and the Office of General Counsel. For example, in proceedings where no federal support exists, the requirements outlined in this policy to report to HHS and or the Office of Research Integrity (ORI) would not apply.

The entirety of a research misconduct proceeding is to be treated as confidentially as is reasonably possible, consistent with a thorough, competent, objective, and fair misconduct proceeding, and as allowed by law. All the activities of representatives of the University and the information they gather through this process, including the identity of respondents, complainants, and witnesses, are considered confidential to the extent possible and may not be shared with any other individual outside the process unless specified herein or directed by the Vice Provost for Research or the General Counsel. Such information may be shared with those who need to know, as determined by the institution, in order to conduct a thorough, competent, objective and fair research misconduct proceeding and as required by law. Those who have a need to know may include, but are not limited to, institutional review boards, journals, editors, publishers, co-authors, and collaborating institutions. The confidentiality obligations applicable to research misconduct proceedings do not prohibit the University from managing published data or acknowledging that data may be unreliable.

A finding of research misconduct, following an investigation, must meet all three of the following criteria:

- I. Significant departure from accepted practices of the relevant research community.
- II. Misconduct committed intentionally, knowingly, and/or recklessly.
- III. A preponderance of evidence proving the allegation.

Research misconduct does not include honest error or differences of opinion. All persons, including, but not limited to, faculty members, post-doctoral associates, graduate students, undergraduate students, staff, and administrators, may be subject to allegations of research misconduct. Similarly, all such individuals are required to report potential instances of research misconduct and to cooperate and participate in research misconduct proceedings where requested.

The University will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations. The University's Retaliation and Whistleblower Protection policy prohibits the taking of retaliatory action against anyone for reporting or inquiring about potential breaches of University policy or for seeking guidance on how to handle suspected breaches. Retaliation can take many forms including, but not limited to, abuse or violence; threats; physical intimidation; verbal, written, electronic or behavioral acts which produce or attempt to produce isolation, ridicule, embarrassment or intimidation as a result or have an adverse effect on the professional career of the accuser. The identity of complainants will be protected to the extent

consistent with the needs of an inquiry or investigation and the requirements of the law. Those individuals who provide information about questionable conduct will be protected against reprisals. The University will also seek to appropriately discipline any member of the University community who (i) retaliates against anyone who makes allegations of research misconduct, provides evidence, or participates in the proceedings or (ii) who knowingly breaches the confidentiality requirements of this Misconduct in Research policy.

When allegations of research misconduct are not sustained, the Vice Provost for Research shall in concert with the Provost, Department Chair(s) or Directors, and Dean(s) undertake reasonable efforts to restore the reputation of the respondent. Inherent to this requirement, all reasonable steps should be taken to keep all information regarding the allegation confidential during and after the inquiry and investigation, consistent with this policy, to protect the professional reputation of any individuals alleged to have committed research misconduct. Breaches in this confidentiality initiated by the respondent are not the responsibility of the University. However, the University is not prohibited from disclosing the identity of respondents, complainants, and witnesses once the University has made a final determination of research misconduct findings.

4. PROCESS

The Vice Provost for Research will be the recipient of any allegations of misconduct in research. These allegations may be brought by either internal sources (such as faculty, staff, or students) or external sources. These sources may be identified or anonymous. If the Vice Provost for Research is the identified respondent, the inquiry and investigation should be conducted by the Provost or their designee. There are several distinct stages in responding to allegations of research misconduct: preliminary assessment, inquiry, investigation, disciplinary action and/or sanctions (if appropriate), and appeal (if requested). The University has the burden of making a finding of whether research misconduct occurred under the standards outlined in this policy and the applicable regulations. The evidentiary standard for research misconduct determinations is by a preponderance of the evidence. Any affirmative defenses (for example, honest error or difference of opinion) must be raised by the respondent and proved by the respondent by a preponderance of the evidence. However, the University will consider any evidence of honest error or difference of opinion in the record in meeting its burden whether or not the respondent introduced the evidence.

4.1. Research Misconduct, as defined above, does not include every type of unprofessional conduct or misbehavior. The role of the preliminary assessment by the Vice Provost for Research is to determine whether it is appropriate to begin an inquiry as outlined in this policy or whether other alternative administrative actions are appropriate. The Vice Provost for Research may determine that the allegation does not merit further inquiry as described in this Misconduct in Research Policy. Alternative processes commonly reviewed to determine applicability are: Academic Integrity ([Honor Code Student Conduct Policies and Procedures](#)), Employee Grievance ([Faculty Grievance Policy](#)), Conflict of Interest ([Conflict of Interest Policy](#)), Intellectual Property Policies and Procedures (<https://www.du.edu/techtransfer/policies-resources/ip-policies>) and this Misconduct in Research policy.

4.2. Preliminary Assessment and Sequestration of the Research Record

During the preliminary assessment, the Vice Provost for Research may engage in a discussion with the complainant to gather additional clarification to determine which, if any, process best

aligns with the allegation. The assessment only involves the review of readily accessible information relevant to the allegation.

The PHS regulations and this policy only apply to research misconduct occurring within six (6) years of the date the University receives the allegation of research misconduct. However, to the extent a respondent continues or renews any incident of alleged misconduct that occurred before the six-year limitation through the use of, republication of, or citation to the portion(s) of the research record alleged to have been fabricated, falsified, or plagiarized, for the potential benefit of the respondent, the six-year limitation does not apply.

The Vice Provost for Research shall review allegations that fall within this Misconduct in Research Policy to determine if an inquiry is warranted. An inquiry is warranted where the allegation falls within the definition of research misconduct (e.g., falsification, fabrication or plagiarism) and is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

If it is determined that an inquiry is warranted, the Vice Provost for Research will document the assessment and promptly take all reasonable and practical steps to sequester all research records and other evidence. To begin the inquiry, the Vice Provost will appoint and delegate authority to a committee to conduct an inquiry (the "Inquiry Committee"). At that time, the Vice Provost for Research shall send confidential notifications of the allegation(s) to the respondent and their immediate supervisor(s) identifying: (1) the specific category of alleged research misconduct and (2) the particular research, with which the research misconduct is alleged to have occurred. If it is determined the allegations do not warrant an inquiry pursuant to this policy, the Vice Provost for Research will articulate the reasons for this determination and retain those records as required by applicable regulations. If appropriate, the Vice Provost for Research may refer the allegation(s) directly to an alternative or concurrent internal authority.

4.3. Inquiry Committee

The Inquiry Committee is to decide whether or not there is sufficient evidence of research misconduct to justify an investigation and whether there are additional instances of misconduct and/or additional respondents who should be identified in the proceedings. Any new respondents identified by the Inquiry Committee will be notified of the allegations against them in writing. To the extent new allegations against one or more respondents are identified throughout the proceeding, the relevant respondent will be notified of the expansion of scope of allegations under review.

The members of the Inquiry Committee will be appointed by the Vice Provost for Research. The Inquiry Committee will consist of at least three University associate or full professors with relevant expertise and backgrounds. At least two of the members must also be members of the Sponsored Projects Academic Research Council (SPARC). The Inquiry Committee should never exceed five members. The Vice Provost for Research may also appoint staff members from the Office of Research Integrity and Education to assist the Committee, but who will not vote or actively participate in Committee discussions.

Prior to appointing the Inquiry Committee, the Vice Provost for Research will review the proposed Inquiry Committee's composition with a SPARC representative affiliated with the

school or college and with the dean or designee under which each respondent has their primary relationship. This is to promote review of the Inquiry Committee's membership by someone with relevant disciplinary knowledge. This may also identify potential unresolved conflicts of interest prior to the Inquiry Committee formation. If suggestions for modifications to the Inquiry Committee's composition are made, the Vice Provost for Research will make every effort to incorporate that input.

The Vice Provost for Research will take precautions against unresolved personal, professional or financial conflicts of interest on the part of those involved in the inquiry. Prior to the first Inquiry Committee meeting, the Vice Provost for Research will share the Inquiry Committee membership with the respondent and allow the respondent five (5) business days to raise any potential unresolved personal, professional or financial conflicts of interest with the Inquiry Committee members in writing.

Additionally, all members of the Inquiry Committee, upon invitation to serve, will be asked to identify whether they have any unresolved personal, professional or financial conflicts of interest and share them with the Vice Provost for Research for evaluation and determination. Members with a confirmed unresolved conflict of interest will be discharged from the Inquiry Committee and replaced in a manner consistent with the above.

The Inquiry Committee will select a chair (the "Inquiry Committee Chair") from among its members. The Inquiry Committee Chair will be responsible for communicating with the Vice Provost for Research and ensuring the Committee conducts its work within those timelines and scope of charge imposed upon it.

The Inquiry Committee will have 90 calendar days (unless circumstances clearly warrant a longer period) to conduct a confidential inquiry and submit a final report. If the inquiry takes longer than 90 days to complete, the report of the Inquiry Committee shall include documentation of the reasons for exceeding the 90-day period and written approval for the extension by the Vice Provost for Research.

4.4. Inquiry Procedure

- 4.4.1. Interviews: The task of the Inquiry Committee is to conduct initial interviews of the complainant as well as the respondent. The Inquiry Committee may also decide to interview additional individuals who may have information relevant to the inquiry or bring a specific expertise needed by the Inquiry Committee. These interviews are not a legal proceeding and should remain informal with the smallest necessary number of individuals involved. The respondent does not have a right to attend the interviews of the complainant or other witnesses. The Inquiry Committee will maintain confidentiality in its proceedings and those invited for interviews will be advised as to the confidentiality obligations that attach to these proceedings.
- 4.4.2. Other Evidence: The Inquiry Committee will also examine relevant and available documents or other materials to assist in the inquiry, including any materials submitted for consideration by the respondent. An inquiry does not require a full review of the evidence related to the allegation.
- 4.4.3. Determination: The Inquiry Committee is to decide whether or not sufficient evidence of misconduct in research exists to justify an investigation and whether other University

personnel may be involved. Specifically, to move to investigation the Inquiry Committee must determine that there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct, and preliminary information-gathering and fact-finding from the inquiry indicates that the allegation may have substance. A decision to recommend an investigation must be approved by a majority of the Committee (abstentions are counted as opposing a recommendation to investigate). Findings of research misconduct, including a determination of whether the conduct is intentional, knowing, or reckless, cannot be made at the inquiry stage.

- 4.4.4. Inquiry Report: A written report shall be prepared that meets the specific requirements of 42 C.F.R. § 93.309 and states what evidence was reviewed, summarizes relevant interviews, and includes the conclusions and recommendations of the inquiry (the "Inquiry Report"). If there is potential evidence of honest error or difference of opinion in the record, the Inquiry Committee shall note that in the Inquiry Report. If the inquiry took longer than 90 days, the Inquiry Report will document the reasons the inquiry took additional time. In the case that an investigation is not recommended, the Inquiry Report should contain sufficient detail of the inquiry process to permit a later assessment of reasons for not pursuing an investigation. If an investigation is recommended, the Inquiry Report should clarify the allegation(s) moving forward to investigation so that the respondent can adequately respond to the allegation(s). The Inquiry Committee will provide the Inquiry Report, including recommended actions, to the Vice Provost for Research.
- 4.4.5. Notification and Response: The Vice Provost for Research will share the Inquiry Committee's draft Inquiry Report with the respondent and allow the respondent 14 business days to provide an official written response. Any written response will be included as an appendix of the final Inquiry Report. The Vice Provost for Research will evaluate the Inquiry Report and written response(s) to make the final determination of whether findings from the inquiry provide sufficient basis for conducting an investigation. The Vice Provost for Research will then notify the respondent, the Provost, relevant Department Head(s) and Dean(s) of the Inquiry Committee's recommendation and (if any) the Vice Provost for Research's recommendation. The final Inquiry Report (including the respondent's response(s), if any) will be made available to those individuals listed above and, for Public Health Service research, will be submitted to the Office of Research Integrity (ORI) within 30 days of the determination that an investigation is warranted. If no investigation will occur, the Vice Provost for Research may notify the complainant that the process has concluded and provide sufficient detail to justify that determination. But the Inquiry Report (including the respondent's comments, if any) should not be made available in its entirety to the complainant unless directed by the General Counsel.

4.5. Investigation

If a determination is made to proceed to investigation, an Investigation Committee will be appointed by the Vice Provost of Research to perform an in-depth investigation of the allegation referred for investigation by the Investigation Committee. The investigation must commence within 30 days of determining it is warranted.

The Investigation Committee will consist of no fewer than three (3) and no more than five (5) University professors with relevant expertise. At least two (2) of the members should be members of the SPARC. The overlap of the Inquiry Committee and Investigation Committee

members should be limited; therefore, members of the Inquiry Committee serving on the Investigation Committee cannot constitute a majority of the members of the Investigation Committee. It may be helpful to have at least one member of the Inquiry Committee serve on the Investigation Committee for continuity; however, the overlap of one individual is recommended but not mandatory. The Vice Provost for Research may also appoint staff members from the Office of Research Integrity and Education to assist the Committee, but who will not vote or actively participate in Committee discussions.

Prior to appointing members to the Investigation Committee, the Vice Provost for Research will review the proposed Investigation Committee's composition with a SPARC representative affiliated with the school or college. This is to ensure that the justification of the membership is articulated and reviewed by someone with relevant disciplinary knowledge. This may also identify potential unresolved personal, professional or financial conflicts of interest of the proposed Investigation Committee members prior to the Investigation Committee formation. If suggestions for modifications to the Investigation Committee's composition are made, the Vice Provost for Research will make every effort to incorporate that input.

The Vice Provost for Research will take precautions against unresolved personal, professional or financial conflicts of interest on the part of those involved in the investigation. Prior to the first Investigation Committee meeting, the Vice Provost for Research will share the Investigation Committee's membership with the respondent and allow them five business days to raise any potential unresolved personal, professional or financial conflicts of interest in writing, which will be considered by the Vice Provost for Research before finalizing Investigation Committee membership. Additionally, all members of the Investigation Committee will be asked to evaluate their unresolved personal, professional or financial conflicts of interest and share them with the Vice Provost for Research. Members determined to have an unresolved personal, professional or financial conflict of interest will be discharged from the Investigation Committee and replaced in a manner consistent with the above.

The Investigation Committee will select a chair (the "Investigation Committee Chair") from among its members. The Investigation Committee Chair will be responsible for communicating with the Vice Provost for Research and ensuring the Committee conducts its work within those timelines and scope of charge imposed upon it.

The Investigation Committee will commence its investigation within 30 days of the decision to pursue an investigation. An institutional decision to initiate an investigation must be reported in writing to the Office of Research Integrity (or other Sponsor) within 30 days of the determination that an investigation is warranted. The University will provide ORI with a copy of the Inquiry Report.

The investigation, which shall normally be completed within one hundred and eighty (180) days of its initiation, will include conducting the investigation and preparing the report of findings. If the Investigation Committee determines that it will not be able to complete the investigation within one hundred and eighty (180) days, it must submit a written request for an extension to the Vice Provost for Research. For an investigation concerning the Public Health Service, the Vice Provost for Research has responsibility for submitting the request to the Office for Research Integrity and informing the Investigation Committee to operate within any modified time requirements set by ORI. This request must contain an explanation for the delay, an interim report on progress to date, and an estimate of the date of completion. Any consideration for an extension must balance the need for a thorough and rigorous examination of the facts versus the interests of the subject(s) of the investigation and any Sponsor(s) (if applicable) in a timely resolution of the matter.

The Investigation Committee will pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion. The Investigation Committee will consider the prospect of additional individuals being responsible for the alleged misconduct and, where appropriate, notify additional respondents of any allegations against them.

4.6. Investigation Procedure

4.6.1. First Committee Meeting: The Vice Provost for Research will provide to the Investigation Committee all the documentation collected regarding the original accusation(s), the documentation of and any materials used for the preliminary assessment, and the Inquiry Committee's report and related materials (including the official response(s) of the respondent and any other evidence on which the Inquiry Report was based).

4.6.2. Vice Provost for Research: The Vice Provost for Research will act on behalf of the Investigation Committee to secure evidence and enlist the input of others from internal and external entities, as needed, but the evidence will be sent directly to the Investigation Committee Chair. The same confidentiality standards imparted on the Investigation Committee are required of those individuals from whom input is sought.

4.6.3. Access to Experts: If the Investigation Committee determines the need for assistance from one or more disciplinary or knowledge experts, a member of SPARC or others with adequate disciplinary knowledge, including those external to the University engaged under confidentiality, will be available to the Investigation Committee to provide insight to the Investigation Committee as needed.

4.6.4. Interviews: The Investigation Committee will interview all complainants and respondents and other individuals who might provide relevant information about the allegations. Interviews may be conducted in person or by telephone or computer-based methods. All interviews regarding the allegations of research misconduct must be recorded and transcribed (electronically or in person). The transcript of these interviews will be provided

- to each interviewed party for correction. The respondent does not have a right to attend the interviews of the complainant or other witnesses. However, a copy of the transcript of witness interviews will be provided to the respondent. Certain redactions to such transcripts prior to providing them to the respondent may be appropriate in the discretion of the Investigation Committee, with input from the General Counsel as needed. Individuals may choose to bring legal counsel as an observer to their interview, but the Investigation Committee must be notified in advance. The investigation is not a legal proceeding thus it is not appropriate for an individual's legal counsel to be actively involved in the proceedings. An individual's legal counsel may not participate in the interview or communicate with the Investigation Committee during the interview, absent invitation to do so by the Investigation Committee. If an individual's legal counsel wishes to comment or engage in conversation or other communication with the Investigation Committee, this must be done through the General Counsel.
- 4.6.5. Interim Administrative Action: If the Investigation Committee feels it is appropriate, it may recommend interim administrative actions be taken by the Vice Provost for Research to protect federal or other funds and to ensure that the purposes of the federal or other financial assistance are carried out.
- 4.6.6. Determination: The Investigation Committee is to decide whether or not a preponderance of the evidence proves the allegation of misconduct in research. Although a unanimous determination of misconduct is not required at least a majority is required for a determination that there has been violation of this Misconduct in Research policy (abstentions are counted as opposed to a determination that the subject has violated policy).
- 4.6.7. Recommendation of Disciplinary Actions and/or Sanctions: If the Investigation Committee recommends a finding of research misconduct, it is the Investigation Committee's charge to recommend potential disciplinary actions and/or sanctions. These disciplinary actions and/or sanctions may cover a wide range including an oral reprimand by the immediate supervisor(s) or dismissal from the University and initiation of other actions. The recommended disciplinary actions and/or sanctions should be aligned with the seriousness of the research misconduct, taking into account the extent to which the conduct significantly deviates from accepted professional practice, the frequency the conduct occurred and the risk the conduct represents to the University and the community.
- 4.6.8. Investigation Report: A written report shall be prepared by the Investigation Committee that meets the requirements of 42 C.F.R. § 93.313 (the "Investigation Report"). The Investigation Report should be prepared with sufficient detail that the subject has sufficient information to respond to the findings and recommended disciplinary actions and/or sanctions. The Investigation Committee will submit its Investigation Report (including recommended disciplinary actions and/or sanctions) to the Vice Provost for Research.
- 4.6.9. Institutional Record: The Committee will provide the Vice Provost for Research with a copy of the Institutional Record (with the exception of the forthcoming determination of the Deciding Official) in conjunction with the Investigation Report. The Institutional Record must be sufficiently comprehensive to permit a thorough review of the processes and procedures the Investigation Committee employed. The Institutional Record must be preserved for seven years.

- 4.6.10. Notification and Response: The Vice Provost for Research, after receiving the Investigation Report and Institutional Record from the Investigation Committee, will determine whether the correct processes and procedures were followed and, if so, will certify that fact. The Vice Provost for Research will then share the Investigation Report and the Official Investigatory Files with the respondent and allow them thirty (30) days to provide an official written response to the Investigation Report. If they can be identified, the complainant may be provided with those portions of the Investigation Report that address their role and opinions in the investigation.
- 4.7. The Vice Provost for Research will notify the Provost and the General Counsel of the Investigation Report including the response(s), if any, of the respondent. The Vice Provost of Research will promptly meet with the appropriate Dean(s) and the General Counsel to summarize the determination and if necessary, their recommendation for disciplinary actions and/or sanctions. The appropriate disciplinary actions and/or sanctions will be determined in collaboration between the Dean(s) and the Vice Provost for Research. The Vice Provost for Research will then share the final recommendation in writing with the subject of the investigation and the relevant Department Chair(s) or Directors and Dean(s). The Investigation Report (including the disciplinary actions and/or sanctions notification if appropriate) will be made available to the relevant Department Chair(s) or Directors, Dean(s), Provost, and any Sponsor(s). At that time, the Vice Provost for Research may notify the person(s) submitting the allegation(s) that the investigation has concluded and provide sufficient detail to justify the outcome. The Investigation Report and response(s) should not be made available in its entirety to the person(s) submitting the allegation(s) unless directed by the General Counsel.
- 4.8. An appeal of the disciplinary actions and/or sanctions may be made by the respondent to the Provost or designee. An appeal can be made only on the following grounds: (1) that procedural error(s) occurred that would have significantly contributed to a different determination; (2) that new evidence obtained after the determination is sufficient to contribute to a different determination; (3) that the disciplinary actions and/or sanctions are too severe in relation to the misconduct found and/or (4) there has been a violation of academic freedom. If an appeal is made, the Vice Provost for Research will forward the relevant reports and Institutional Records to the Provost. The Provost or designee shall report the results of their deliberations concerning the appeal (with recommendations for disciplinary actions and/or sanction as appropriate) in writing to the respondent and to the Vice Provost for Research. If the respondent is not faculty, as defined by Section 2.2 of the Policies and Procedures Relating to Faculty Appointment, Promotion, and Tenure (the "APT Policies"), the decisions of the Provost or designee are final (subject, as appropriate, to review by the Board of Trustees). In the event an appeal is made by the respondent, the University will notify ORI as required and will delay submission of the Institutional Record if not already provided to ORI.

If the Provost's or designee's recommended disciplinary actions and/or sanctions include termination of the appointment of the respondent and if the respondent is faculty (as defined in Section 2.2 of the APT Policies), the respondent may follow the appeal procedures for termination for cause as specified in Sections 6.2 and 6.3 in the APT Policies which includes appeal to the Faculty Review Committee pursuant to APT Policies Section 6.3.3.

If the recommended disciplinary actions and/or sanctions do not include termination of the appointment of the respondent and if the respondent is a faculty member (as defined in Section 2.2 of the APT Policies), the respondent may appeal the recommendation of the Provost (or their designee) to the Faculty Review Committee (as established in the Faculty Senate Constitution). All appeals must be made in writing to the Provost within fifteen (15) days from the date of written notification from the Provost or their designee.

If an appeal is made to the Faculty Review Committee, the Provost shall forward the written appeal and the Investigation Report and Institutional Record to the Faculty Review Committee. The Faculty Review Committee shall make a written report to the Provost, the Vice Provost for Research, and the respondent. The Faculty Review Committee shall report severally on the validity of the complaints of the respondent and may recommend remedies for procedural inadequacies or for inequities or injustices. Following review of the relevant reports and files, the Provost or designee shall make a final determination of disciplinary actions and/or sanctions (subject, as appropriate, to review by the Board of Trustees) and notify the respondent, the relevant Department Chair(s) and Director(s), the relevant Dean(s), the Faculty Review Committee, and the Vice Provost for Research in writing.

- 4.9 Any member of the Faculty Review Committee who was also a member of either the Inquiry Committee or the Investigation Committee or is the respondent shall remove themselves from the Faculty Review Committee for the appeal proceedings. A member of the Faculty Review Committee shall recuse themselves because of an unresolved personal, professional, or financial conflict of interest with the complainant, respondent or a witness. The respondent may request that one or more members of the Faculty Review Committee be replaced (or omitted from the proceedings) because of a conflict of interest or other bias. Such a request will be granted subject only to the approval of the Provost. The policies and procedures herein (including policies and procedures for appeal) replace all the policies and procedures in the Employee Grievance Process.

5. OTHER CONSIDERATIONS:

- 5.1 In the event a respondent admits to having committed research misconduct at any stage of the proceedings, the Vice Provost for Research will consult with the General Counsel to determine whether and how the proceedings may be closed prior to the conclusion of an investigation based on such admission.
- 5.2 The Committee(s) and the General Counsel are responsible for notifying the Vice Provost for Research if they ascertain at any stage of the inquiry or investigation that any of the following conditions exist:
- I. The health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
 - II. There is an immediate need to protect threatened federal funds or research equipment.
 - III. Research activities should be suspended.
 - IV. Federal action is required to protect the interests of those involved in the research misconduct proceeding.
 - V. HHS may need to take appropriate steps to safeguard evidence and protect the rights of those involved.

- VI. There is an immediate need to protect the safety, welfare or other interests of the person(s) making the allegations or of the individual(s) who is/are the subject of the allegations as well as their co-investigators and associates, if any.
- VII. It is probable that the alleged incident is going to be reported publicly.
- VIII. There is a reasonable indication of possible criminal violation.
- IX. Students being mentored by the respondent are being (or are at risk of being) adversely impacted by the investigation through no fault of their own.

If any of the above conditions exist and the work is sponsored, the Vice Provost for Research shall notify the Sponsor(s). In addition, the University may take such immediate action(a) as it deems necessary to respond to such conditions.