

 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 charges of misconduct in research 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 prompt notification of the individual(s) who are the subject of the inquiry and investigation, protection to the maximum extent possible of the confidentiality of both the subject individual(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.
- 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. A conflict of interest is not inherent to the compositional makeup of a committee. An unresolved or unacknowledged conflict of interest 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 information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.
- 2.6. Investigation is the formal gathering and evaluation of all known relevant facts to determine if misconduct has occurred.

- 2.7. Research is investigation into and study (observation, experiment, simulation, etc.) of materials, sources, people, animals, and natural phenomena to establish facts and reach new conclusions. 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 or Associate Provost is responsible for overseeing research at the University.
- 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.

3. POLICY

This Policy is intended to comply with the requirements of 42 CFR Part 50, and any such requirements that are not set forth in this Policy (or that become adopted by Federal Sponsors in the future) are hereby incorporated by reference as if fully set forth in this Policy.

The entire research misconduct assessment process is to be treated as confidentially as is reasonably possible. All the activities of representatives of the University and the information they gather through this process are considered confidential and may not be shared with any other individual outside the process unless specified herein or directed by the Vice/Associate Provost for Research or the General Counsel.

A sustained finding of misconduct 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.

The University will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations. University 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 confidential sources will be protected to the extent consistent with the needs of an inquiry or investigation. 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 retaliates against anyone who makes allegations of research misconduct, provides evidence, or participates in the proceedings or who breaches the confidentiality requirements of this Misconduct in Research policy.

When allegations of research misconduct are not sustained, the Vice/Associate 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 person(s) alleged to have engaged in research misconduct. 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 to protect the professional reputation of any individuals alleged to have committed research misconduct. Breaches in this confidentiality initiated by the accused are not the responsibility of the University. If allegations of misconduct are sustained, it may no longer be appropriate or possible to maintain confidentiality.

4. PROCESS

The Vice/Associate 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/Associate Provost for Research is the individual being accused of misconduct, 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).

4.1. Misconduct in research, as defined above, does not include every type of unprofessional conduct or misbehavior. The role of the preliminary assessment by the Vice/Associate 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/Associate Provost for Research may determine that the allegation does not merit further investigation through any of the processes 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 (http://www.du.edu/human-resources/media/documents/employee_handbook_may2013.pdf), University Procedure for Dealing with Possible Infringement of Intellectual Property Rights (<http://www.du.edu/uts/policies/infringement.html>) and this Misconduct in Research policy.

4.2. Preliminary Assessment

During the preliminary assessment, the Vice/Associate Provost for Research may engage in a discussion with the individual(s) making the allegation to gather additional clarification (through sharing of policy language) to determine which, if any, process best aligns with the allegation.

If it is determined the allegations best align with this Misconduct in Research Policy the Vice/Associate Provost for Research will forward the allegation, and delegate authority to a committee to conduct an inquiry (the "Inquiry Committee"). At that time, the Vice/Associate Provost for Research shall send a confidential notification to the subjects of the Inquiry 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 are not aligned with this Misconduct in Research Policy, the Vice/Associate Provost for Research will articulate the reasons for this

determination to the person(s) submitting the allegation(s) and retain those records for a period of three years. If appropriate, the Vice/Associate Provost for Research may refer the allegation(s) directly to an alternative internal authority.

4.3. Inquiry Committee

The Inquiry Committee is to decide whether or not there is sufficient evidence of misconduct in research exists to justify an investigation and whether other University personnel were involved in the policy violation. Information that other University personnel might have involvement in a policy violation will be forwarded to the Vice/Associate Provost for Research to initiate a preliminary assessment. The Vice/Associate Provost for Research will determine if (a) a separate inquiry involving the additional personnel should be undertaken, (b) an inquiry of the additional personnel should become a part of the existing inquiry, or (c) other actions are appropriate.

The members of the Inquiry Committee will be appointed by the Vice/Associate Provost for Research. The Inquiry Committee will consist of at least three University associate or full professors with expertise and backgrounds relevant to the particular allegations. 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.

Prior to appointing the Inquiry Committee, the Vice/Associate 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 accused has their primary relationship. This is to ensure that the justification of the Inquiry Committee's membership is articulated and reviewed by someone with relevant disciplinary knowledge. This may also identify potential conflicts of interest prior to the Inquiry Committee formation. If suggestions for modifications to the Inquiry Committee's composition are made, the Vice/Associate Provost for Research will make every effort to incorporate that input.

The Vice/Associate Provost for Research will take precautions against real or apparent conflicts of interest on the part of those involved in the inquiry. Prior to the first Inquiry Committee meeting, the Vice/Associate Provost for Research will share the Inquiry Committee membership with the individual(s) under review and allow the individual(s) five (5) business days to raise any potential conflicts of interest in writing. At the initial meeting of the Inquiry Committee when confidentiality has been imposed and sufficient detail disclosed, any written information received regarding potential conflict of interest will be disclosed to the Inquiry Committee for their evaluation.

Additionally, all members of the Inquiry Committee will be asked to evaluate any real or perceivable conflicts of interest and share them with the Vice/Associate Provost for Research and the Inquiry Committee for evaluation and determination. Members with a 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/Associate 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 60 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 60 days to complete, the report of the Inquiry Committee shall include documentation of the reasons for exceeding the 60-day period and written approval for the extension by the Vice/Associate Provost for Research.

4.4. Inquiry Procedure

- 4.4.1. First Committee Meeting: The Vice/Associate Provost for Research will provide to the Inquiry Committee all the emails and documentation collected regarding the original accusation(s) (as received) and any materials used for the preliminary assessment.
- 4.4.2. Questions: The Vice/Associate Provost for Research and the General Counsel will make themselves available to the Inquiry Committee to answer questions that arise during the inquiry. However, the Vice/Associate Provost for Research will not review any evidence after the preliminary assessment until the Inquiry Committee submits its final report.
- 4.4.3. Staffing: A staff member from the Office of Research Integrity and Education will be assigned by the Vice/Associate Provost for Research to assist the Inquiry Committee. Staff will assist with evidence collection, stewardship, transcription, meeting arrangements, and related tasks. Staff will attend each meeting, but is not a member, does not vote, will not contribute to any discussion or interview conducted, nor provide an opinion.
- 4.4.4. Interviews: The task of the Inquiry Committee is to conduct initial interviews of those making the allegation as well as those accused. The Inquiry Committee may also decide to interview individuals who may have information relevant to the inquiry or bear 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 Inquiry Committee will maintain confidentiality in its proceedings and those invited for interviews will be bound to confidentiality.
- 4.4.5. Other Evidence: The Inquiry Committee will also examine relevant documents (the US Department of Health and Human Service's Office of Research Integrity or other agency resources, documents referenced in the allegation(s) or subsequent interviews) or other materials to assist in the inquiry. The Inquiry Committee should not attempt to collect information from individuals without first binding them to confidentiality. Best practice is to utilize the Vice/Associate Provost for Research to invite the individual(s) to assist in the inquiry. A letter of invitation should contain clear language that the individual is bound to confidentiality unless released by the Vice/Associate Provost for Research or the General Counsel.
- 4.4.6. 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. A decision to recommend an investigation must be unanimous (abstentions are counted as opposing a recommendation to investigate).
- 4.4.7. Inquiry Report: A written report shall be prepared that states what evidence was reviewed, summarizes relevant interviews, and includes the conclusions of the inquiry (the "Inquiry Report"). 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) so that the accused can adequately respond to the allegation(s). The Inquiry Committee will provide the Inquiry Report, including recommended actions, to the Vice/Associate Provost for Research.

4.4.8. Notification and Response: The Vice/Associate Provost for Research will share the Inquiry Report with each accused and allow each of them 14 business days to provide an official written response. The written response(s) will be included as an appendix of the Inquiry Report. The Vice/Associate 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/Associate Provost for Research will then notify the accused, the Provost, relevant Department Head(s) and Dean(s) of the Inquiry Committee's recommendation and the Vice/Associate Provost for Research's recommendation. The final Inquiry Report (including response(s)) will be made available to those individuals listed above and, upon request, to any Sponsor(s). If no investigation will occur, the Vice/Associate Provost for Research may notify the person(s) submitting the allegation that the process has concluded and provide sufficient detail to justify that determination. But the Inquiry Report (including responses) should not be made available in its entirety to the person(s) submitting the allegations unless directed by the General Counsel.

4.5. Investigation

If an investigation is mandated, the an Investigation Committee will perform an in-depth investigation of the matters reported by the Inquiry Committee as appearing to involve research misconduct.

The members of the Investigation Committee will be appointed by the Vice/Associate Provost for Research. The Investigation Committee will consist of no fewer than three (3) and no more than five (5) University professors with expertise and backgrounds relevant to the particular allegations. At least two (2) of the members should be members of the SPARC. Best practice suggests that 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, the overlap of one individual is recommended but not mandatory.

Prior to appointing members to the Investigation Committee, the Vice/Associate Provost for Research will review the proposed Investigation Committee's composition with a SPARC representative affiliated with the school or college and with the dean or designee from which each accused party has their primary affiliation. 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 conflicts of interest prior to the Investigation Committee formation. If suggestions for modifications to the Investigation Committee's composition are made, the Vice/Associate Provost for Research will make every effort to incorporate that input.

The Vice/Associate Provost for Research will take precautions against real or apparent conflicts of interest on the part of those involved in the investigation. Prior to the first Investigation Committee meeting, the Vice/Associate Provost for Research will share the Investigation Committee's membership with the individual(s) under investigation and allow them five business days to raise any potential conflicts of interest in writing. At the initial meeting of the Investigation Committee when confidentiality has been imposed and sufficient detail disclosed, any written information received regarding potential conflict of interest will be disclosed to the Investigation Committee for their evaluation. Additionally, all members of the Investigation

Committee will be asked to evaluate their real or perceivable conflicts of interest and share them with the Vice/Associate Provost for Research and the Investigation Committee for evaluation and determination. Members with a 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/Associate Provost for Research and ensuring the Committee conducts its work within those timelines and scope of charge imposed upon it.

The Investigation Committee will undertake its investigation within 30 days of the decision by the Vice/Associate Provost for Research to pursue an investigation. An institutional decision to initiate an investigation must be reported in writing to any Sponsor(s) (if applicable) on or before the date the investigation begins.

The investigation, which shall normally be completed within one hundred (120) 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 (120) days, it must submit a written request for an extension to the Vice/Associate Provost for Research. 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. If the extension is approved the new timeline will be conveyed to the subject of the investigation.

If the Investigation Committee plans to terminate an investigation for any reason without completing all relevant requirements under this policy, a report of such planned termination, including a description of the reasons for such termination, shall be made to the Vice/Associate Provost for Research who will then decide whether further investigation should be undertaken. The Vice/Associate Provost for Research shall forward the Investigation Committee's recommendation to any Sponsor(s), if applicable.

4.6. Investigation Procedure

4.6.1. First Committee Meeting: The Vice/Associate Provost for Research will provide to the Investigation Committee all the documentation collected regarding the original accusation(s) any materials used for the preliminary assessment and the Inquiry Committee's report and materials (with the official response(s) of the subject of the investigation.

4.6.2. General Counsel: The General Counsel will be available to the Investigation Committee to answer questions that arise during the investigation. The General Counsel (and Vice/Associate Provost for Research) will assist the Investigation Committee to ensure that there are no unintended legal consequences of investigation methods, questions asked or requests made, communications with the accused or others, and findings. Among the issues on which guidance will be provided by the General Counsel is whether information should be sought from people external to the University.

4.6.3. Vice/Associate Provost for Research: The Vice/Associate 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.
- 4.6.4. Staffing: Staff support from the Office of Research Integrity and Education will be assigned by the Vice/Associate Provost for Research to assist the Investigation Committee. Staff will assist with evidence collection, stewardship, transcription, meeting arrangements, and the like. Staff will attend each meeting, but is not a member, does not vote, will not contribute to any discussion or interview conducted, nor provide an opinion.
- 4.6.5. Access to Experts: If the Investigation Committee determines the need for assistance from one or more disciplinary experts, a member of SPARC or others with adequate disciplinary knowledge will be available to the Investigation Committee to provide insight into school, college or disciplinary differences/norms to the Investigation Committee as needed. Such individual(s) will have limited access to evidence and will not author any part of the final Investigation Committee report. The Vice/Associate Provost for Research will provide the invitation to these individuals and will bind them to confidentiality similar to all the members of the Investigation Committee.
- 4.6.6. Immediate Tasks: The Investigation Committee will review the report of the Inquiry Committee, and information assembled during the preliminary assessment and the inquiry, to determine the nature of the information needed to determine the validity of the allegation(s). The Investigation Committee will secure and examine all relevant evidence including documents, correspondence, memoranda of telephone calls, research data, artifacts, manuscripts, publications, and proposals, as deemed pertinent to the allegations. This could include, but is not limited to, raw research data, statistical analyses, original figures, etc. If the allegation concerns fabrication or falsification of research results, the Investigation Committee should request all relevant data from the accused or other sources as quickly as possible in order to minimize the opportunity for destruction or manipulation of those records.
- 4.6.7. Interviews: Whenever possible, the Investigation Committee will interview all individuals involved in making allegations or against whom the allegations were made and other individuals who might provide relevant information about the allegations or defense against the allegations. In-person interviews are preferable, but as needed interviews may be conducted by telephone or computer-based methods. All interviews regarding the allegations of research misconduct should be recorded and/or transcribed (electronically or in person). Summaries of these interviews are to be provided to each interviewed party for comment or revision. At the discretion of the Investigation Committee, the full transcript may be provided for comment or revision if needed to ensure fair reporting of the contents. The investigation is not a legal proceeding thus it is not appropriate to have legal counsel involved. Individuals may choose to bring legal counsel as an observer to their interview, but the Investigation Committee must be notified in advance. An individual's legal counsel may not participate in the interview or communicate with the individual(s) or the Investigation Committee during the interview. If the legal counsel wishes to comment or engage in conversation or other communication with the Investigation Committee, this must be done through the General Counsel.
- 4.6.8. Communication: The Investigation Committee should avoid the use of non-secure email whenever feasible, especially when sharing drafts of the final report.
- 4.6.9. Interim Administrative Action: If the Investigation Committee feels it is appropriate, it may recommend interim administrative actions be taken by the Vice/Associate 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.

- 4.6.10. Determination: The Investigation Committee is to decide whether or not sufficient evidence exists to support the allegation of misconduct in research. Although a unanimous determination of misconduct is not required at least a 4/5 consensus is required for a determination that there has been violation of this Misconduct in Research policy, given the potential negative impact such a determination might have on the subjects professional career (abstentions are counted as opposed to a determination that the subject has violated policy).
- 4.6.11. Recommendation of Disciplinary Actions and/or Sanctions: If misconduct is found, it is the Investigation Committee's charge to recommend 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 legal proceedings. The recommended disciplinary actions and/or sanctions should be aligned with the seriousness of the misconduct, taking into account the extent to which the conduct deviates from professional practice, the frequency the conduct occurred and the risk the conduct represents to the University and the community.
- 4.6.12. Investigation Report: A written report shall be prepared that names the Investigation Committee members; presents their charge as they understand it; explains the allegation(s), policies and procedures under which the investigation was conducted; identifies what and from whom evidence and information were collected and reviewed; summarizes or provides actual text of relevant interviews; documents requests for extension (if applicable); includes interpretation of the evidence; includes the findings; and recommends disciplinary actions and/or sanctions if appropriate (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/Associate Provost for Research.
- 4.6.13. Official Investigatory Files: The Committee will provide the Vice/Associate Provost for Research a collection of all information used by the Investigation Committee in reaching its findings, and/or supporting other observations by the Committee (the "Official Investigatory Files"). The Official Investigatory Files must be sufficiently comprehensive to permit a thorough review of the processes and procedures the Investigation Committee employed. The Official Investigatory Files must include the policies and procedures under which the investigation was conducted, and how and from whom information was obtained relevant to the investigation. The Official Investigatory Files should also include the actual text or an accurate summary of the views of any individual(s) found to have either been engaged in, or blameless of, misconduct, summaries or transcripts of interviews conducted by the Investigation Committee, all documents received by the Investigation Committee that contain pertinent information, and request(s) for extension (if applicable). The Official Investigatory Files, but not miscellaneous drafts or internal communications of the Investigation Committee, should be preserved confidentially for three years.
- 4.6.14. Notification and Response: The Vice/Associate Provost for Research, after receiving the Investigation Report and Official Investigatory Files from the Investigation Committee, will determine whether the correct processes and procedures were followed and, if so, will certify that fact. The Vice/Associate Provost for Research will then share the Investigation

Report and the Official Investigatory Files with each accused and allow each of them fourteen (14) business days to provide an official written response to be included as an appendix of the Investigation Report. If they can be identified, the person(s) who raised the allegation(s) should be provided with those portions of the Investigation Report that address their role and opinions in the investigation.

- 4.7. The Vice/Associate Provost for Research will notify the Provost and the General Counsel of the Investigation Report including the response(s) of the subject of the investigation. The Vice/Associate 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/Associate Provost for Research. The Vice/Associate 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/Associate 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 accused 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/Associate Provost for Research will forward the relevant reports and files 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 subject of the investigation and to the Vice/Associate Provost for Research. If the accused 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).

If the Provost's or designee's recommended disciplinary actions and/or sanctions include termination of the appointment of the subject of the investigation and if the subject is faculty (as defined in Section 2.2 of the APT Policies), the accused 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 accused and if the accused is a faculty member (as defined in Section 2.2 of the APT Policies), the accused 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 Official Investigatory Files to the Faculty Review Committee. The Faculty Review Committee shall make a written report to the Provost, the Vice/Associate Provost for Research, and the accused. The Faculty Review Committee shall report severally on the validity of the complaints of the accused 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 accused, the relevant Department Chair(s) and Director(s), the relevant Dean(s), the Faculty Review Committee, and the Vice/Associate Provost for Research in writing.

Any member of the Faculty Review Committee who was also a member of either the Inquiry Committee or the Investigation Committee or is the accused shall remove themselves from the Faculty Review Committee for the appeal proceedings. A member of the Faculty Review Committee shall recuse themselves because of a conflict of interest or other bias. The accused 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.

- 4.9. An institutional decision to initiate an investigation must be reported in writing to the Sponsor(s) (if applicable) on or before the date the investigation begins, at a minimum, the notification should include the name(s) of the person(s) against whom the allegations have been made, the general nature of the allegations, and the application or grant number(s) involved. While primary responsibility for the conduct of investigations and inquiries lies with the University of Denver, a Sponsor(s) (if applicable) may perform its own investigation at any time prior to, during, or following an institution's investigation. All documentation included in the official record of the investigation shall be available to the Sponsor(s) (if applicable) upon its request. The Vice/Associate Provost for Research shall provide all notifications to and cooperate with such federal agencies as required by the regulations found at 42 CFR Part 50 relating to institutional investigation and reporting of possible misconduct.

Periodic progress reports may be requested by the Sponsor(s) (if applicable). If satisfactory progress is not made in the University's investigation, the Sponsor(s) (if applicable) may undertake an investigation of its own.

The Vice/Associate Provost for Research shall submit the Investigation Committee's final Investigation Report (including the official response(s)) to the Sponsor(s) (if applicable), along with notice of any disciplinary actions and/or sanctions. Upon receipt of the final Investigation Report and supporting materials, the Sponsor(s) (if applicable) may review the information in order to determine whether the investigation has been performed in a timely manner and with sufficient objectivity, thoroughness and competence. The Sponsor(s) (if applicable) may then request clarification or additional information and, if desired, perform its own investigation.

If one or more appeals has been undertaken the results of the appeal(s) shall also be reported to the Sponsor(s) (if applicable). In addition to disciplinary actions and/or sanctions that the

University may decide to impose, the Sponsor(s) (if applicable) also may impose sanctions of its own upon investigators or institutions based upon authorities it possesses or may possess, if such action seems appropriate.

5. OTHER CONSIDERATIONS:

The Committee(s) and the General Counsel are responsible for notifying the Vice/Associate Provost for Research if they ascertain at any stage of the inquiry or investigation that any of the following conditions exist:

- I. There is an immediate health hazard involved.
- II. There is an immediate need to protect federal funds or research equipment.
- III. 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.
- IV. It is probable that the alleged incident is going to be reported publicly.
- V. There is a reasonable indication of possible criminal violation. In that instance, the institution must inform the Sponsor(s) (if applicable) within twenty-four (24) hours of obtaining that information. The University should also report possible criminal violations to law enforcement, as appropriate.
- VI. Students being mentored by the subject of the accusation are being (or are at risk of being) adversely impacted by the investigation through no fault of their own.
- VII. There is need to secure and protect research records including notebooks, computer files, samples, and other relevant documents or artifacts.

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