NUMBER: 1426

TITLE: Policy, Procedures and Timeline for Responding to Allegations of Misconduct in Scientific Research and Scholarly Activity

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I. Introduction

A. General Policy

It is the responsibility of every member of the Old Dominion University community to ensure integrity in scientific research and scholarly activity. Research misconduct injures the reputation of the university and restricts its ability to compete for external research support. Old Dominion University is dedicated to intellectual integrity and requires the same commitment from all of its faculty, staff, students, and research contributors. Hereafter, "research" connotes any type of scientific research or other scholarly activity and "misconduct" connotes misconduct in scientific research or in other scholarly activity.

The U.S. Public Health Service (PHS) and the National Science Foundation (NSF) regulate the management of research misconduct in programs they fund. These agencies require notification upon the discovery of misconduct. The regulations also provide guidelines for protecting the reputations and privacy of both the accuser and the accused. The Old Dominion University policy seeks compliance with these regulations. With the exception of reporting requirements, this policy applies also to research funded by sources other than the PHS and the NSF and to unfunded research.

B. Scope

This policy and the associated procedures apply to all individuals engaged in scientific research or other scholarly activity at Old Dominion University. Special notes identify procedures that are particular to PHS- and NSF-funded research. This policy applies to any person paid by, under the control of, or affiliated with Old Dominion University, such as faculty, trainees, technicians and other staff members, students, fellows, guest researchers, or collaborators.

The policy and associated procedures will normally be followed when an allegation of possible misconduct is received by an institutional official. A summary of the procedures and associated timelines for completion is found in the Appendix.

II. Definitions

A. Allegation means any written statement of possible misconduct made to an institutional official, either to the dean of the affected college or to the Research Integrity Officer ("RIO").

B. Complainant means a person who makes an allegation of misconduct in scientific research or other scholarly activity.

C. Confidentiality means a state or quality of being confidential. It connotes the entrustment with secret affairs or purpose and a shared intent to operate secretly. In many cases of research misconduct, confidentiality is a legal requirement. Each member involved in the process bears the duty of protecting the privacy of both the Complainant and the Respondent; a member who breaches this duty may be subject to discipline.

D. Conflict of Interest means the real or apparent interference of one person's interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships.

E. Day means calendar day.

F. Deciding Official "DO" means the university official who makes final determinations on allegations of misconduct and any responsive institutional actions. The DO will normally be the Provost and Vice President for Academic Affairs. For this reason, he or she cannot serve as the RIO. If the provost and vice president for academic affairs has had direct, prior involvement in the research, inquiry, investigation, or allegation assessment, he or she will be required to recuse him or herself and the president will appoint an alternate DO.

G. Good Faith Allegation means an allegation made with the honest belief that misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.

H. Inquiry means gathering information and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.

I. Investigation means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred and, if so, to determine the responsible person and the seriousness of the misconduct.

J. Old Dominion University defines Misconduct in Scientific Research and Other Scholarly Activity as:

1. Fabrication, Falsification, Plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific

community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations of results or judgments in the collection of data.

2. The Retaliation against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith. (In such cases, agency notification is limited to the NSF.)

3. Any form of Attribution of another's work as the Respondent's own work.

The ODU definition is based on how research misconduct is defined in the regulations promulgated by the National Science Foundation and Public Health Service.

K. NSF means the National Science Foundation.

L. NSF Regulation means the National Science Foundation regulation establishing standards for institutional inquiries and investigations into allegations of scientific misconduct, which is set forth at 45 C.F.R. Part 689, entitled "Misconduct in Science and Engineering."

M. ORI means the Office of Research Integrity, the office within the Department of Health and Human Services (DHHS) that is responsible for the scientific misconduct and research integrity activities of the U.S. Public Health Service.

N. PHS means the U. S. Public Health Service, an operating component of the DHHS.

O. PHS Regulation means the Public Health Service regulation establishing standards for institutional inquiries and investigations into allegations of scientific misconduct, which is set forth at 42 C.F.R. Part 50, Subpart A, entitled "Responsibility of PHS Awardee and Applicant Institutions for Dealing With and Reporting Possible Misconduct in Science."

P. PHS or NSF Support means PHS or NSF grants, contracts, or cooperative agreements or applications therefore.

Q. Preponderance of the Evidence means that the evidence shows that it is more likely than not that the Respondent committed misconduct in scientific research or scholarly activity.

R. Research Integrity Officer "RIO" means the institutional official responsible for assessing allegations of misconduct and investigations, for determining when such allegations warrant inquiries, and for overseeing inquiries and investigations.

S. Research Record means any data, document, computer file, computer diskette, or any other written or non-written account or object that reasonably may be

expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of misconduct. A research record includes, but is not limited to: grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; exhibitions, productions, or displays; correspondence; videos; photographs; X-ray film; slides; biological materials; audio-tape recordings; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.

T. Respondent means the person against whom an allegation of misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one Respondent in any inquiry or investigation.

U. Retaliation means any action that adversely affects the employment or other institutional status of an individual that is taken by an institution or an employee because the individual has in good faith made an allegation of misconduct or of inadequate institutional response thereto or has cooperated in good faith with an investigation of such allegation.

V. Sequester means to separate or isolate documents or material from the individual concerned and into the custody of a disinterested institutional official designated by the RIO, such as the general counsel, who can provide confidential and secure storage.

III. Rights and Responsibilities

A. Research Integrity Officer

The president will appoint the RIO, who will have primary responsibility for implementation of the procedures set forth in this document. The RIO will be an institutional official who is well qualified to handle the procedural requirements involved and is sensitive to the varied demands made on those who conduct research, those who are accused of misconduct, and those who report apparent misconduct in good faith. In general, the provost and vice president for academic affairs, general counsel, and vice president for research are unavailable for service as the RIO.

The RIO will appoint the inquiry and investigation committee and ensure that necessary and appropriate expertise is secured to carry out a thorough and authoritative evaluation of the relevant evidence in an investigation. The RIO will ensure that confidentiality is maintained.

The RIO will assist the inquiry and investigation committee and all institutional personnel in complying with these procedures and with applicable standards

imposed by government or external funding sources. The RIO is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files.

The RIO, through the vice president for research[1], will report to ORI or NSF, as required by regulation, keep the appropriate agency apprised of any developments during the course of the investigation that may affect current or potential funding for the individual(s) under investigation or that the agency needs to know to ensure appropriate use Federal funds, and otherwise protect the public interest.

B. Complainant

The Complainant will have an opportunity to testify before the inquiry and investigation committee, to review portions of the inquiry and investigation reports pertinent to his/her allegations or testimony, to be informed of the results of the inquiry and investigation, and to be protected from retaliation. Also, if the RIO has determined that the Complainant may be able to provide pertinent information on any portions of the draft report, these portions will be given to the Complainant for comment.

The Complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation.

C. Respondent

The Respondent will be informed of the allegations when an inquiry is opened and notified in writing of the final determinations and resulting actions. The Respondent will also have the opportunity to be interviewed by and present evidence to the RIO during his/her inquiry, an opportunity to be interviewed by and present evidence to the inquiry and investigation committees, to review the draft inquiry and investigation reports, and to have the advice of counsel. Counsel (licensed Attorney or lay advisor) may not address the inquiry and investigation committees in place of the Respondent, or question other witnesses in place of the Respondent. Counsel's role shall be restricted to acting only as advisor to the Respondent.

The Respondent is responsible for maintaining confidentiality of all information received from the inquiry or investigation and for cooperating with the conduct of an inquiry or investigation. If the Respondent is found to be not guilty of misconduct, he or she has the right to receive institutional assistance, reasonable and diligent under the circumstances, to restore his or her reputation.

D. Deciding Official "DO"

The DO will receive the inquiry and investigation reports and any written

1 As a general rule, whether or not specifically stated, Agency contact by the RIO should be through the Vice President for Research/Office of Research.

comments made by the Respondent or the Complainant on the draft report. The DO will decide whether misconduct occurred, whether to impose sanctions, or whether to take other appropriate administrative actions.

IV. General Policies and Principles

A. Responsibility to Report Misconduct

All employees or individuals associated with Old Dominion University should report observed, suspected, or apparent misconduct to the RIO directly or through the dean of the affected college. If an individual is unsure whether a suspected incident falls within the definition of misconduct, he or she may informally and confidentially discuss the suspected misconduct with the RIO. If the circumstances described by the individual do not meet the definition of misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, an employee may have confidential discussions and consultations about concerns of possible misconduct with the RIO, the vice president for research, or the dean of the affected college, and will be counseled by the RIO about appropriate procedures for reporting allegations.

B. Protecting the Complainant

The RIO will monitor the treatment of individuals who bring allegations of misconduct or of inadequate institutional response thereto, and those who cooperate in inquiries or investigations. The RIO will ensure that these persons will not be retaliated against in the terms and conditions of their employment or other status at the institution and will review instances of alleged retaliation for appropriate action.

Employees should immediately report any alleged or apparent retaliation to the RIO.
Also the institution will protect the privacy of those who report misconduct in good faith to the maximum extent possible. For example, if the Complainant requests anonymity, the university will make an effort to honor the request during the allegation assessment or inquiry within applicable policies and regulations and state and local laws, if any. The Complainant will be advised that if the matter is referred to an Investigation Committee and the Complainant's testimony is required, anonymity may no longer be guaranteed. Old Dominion University will undertake reasonably diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

C. Protecting the Respondent

Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the Respondent(s) in the inquiry or investigation and confidentiality

to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry or investigation.

Institutional employees accused of misconduct may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the counsel or personal adviser to interviews or meetings on the case.

D. Cooperation with Inquiries and Investigations

All individuals involved will cooperate with the RIO and other institutional officials in the review of allegations and the conduct of inquiries and investigations. This affirmative duty includes the obligation to provide relevant evidence to the RIO or other officials on misconduct allegations.

E. Preliminary Assessment of Allegations

Upon receiving an allegation of misconduct, the RIO will immediately assess the allegation to determine whether there is sufficient evidence to warrant an inquiry, whether PHS or NSF support or applications for funding are involved, and whether the allegation falls under the PHS or NSF definitions of scientific misconduct.

V. Conducting the Inquiry

A. Initiation and Purpose of the Inquiry

Following the preliminary assessment, if the RIO determines that the allegation provides sufficient information to allow specific follow-up and falls under the definition of misconduct, he or she will immediately initiate the Inquiry Process. In initiating the Inquiry, the RIO should identify clearly the original allegation and any related issues that should be evaluated. The purpose of the inquiry is to determine whether there is sufficient evidence of possible misconduct to warrant a full investigation. The inquiry should not reach a final conclusion about whether misconduct definitely occurred or who was responsible. The findings of the inquiry must be set forth in an inquiry report.

B. Inquiry Process

After determining that an allegation falls within the definition of misconduct, the RIO must ensure that all original research records and materials relevant to the allegation are immediately secured. The RIO may consult with federal agencies through the Office of Research for advice and assistance in this regard.

The RIO, in consultation with other university officials as appropriate, will normally interview the Complainant, the Respondent, and key witnesses as well as examine relevant research records and materials. The RIO will evaluate the

evidence and testimony and decide whether there is sufficient evidence of possible misconduct to recommend further investigation.

The RIO will submit a draft report to the DO, Complainant and Respondent that describes his/her conclusion regarding sufficient evidence of possible misconduct that would justify further investigation. The RIO will establish reasonable conditions for review to protect the confidentiality of the draft report.

Within 10 days of their receipt of the draft report, the Complainant and Respondent will provide their comments, if any, to the RIO. Any comments that the Complainant or Respondent submits on the draft report will become part of the final inquiry report and record. Based on the comments, the RIO may revise the draft report as appropriate.

The RIO will transmit the final report and any comments to the DO who will have 10 days in which to make the determination of whether findings from the inquiry provide sufficient evidence of possible misconduct to justify conducting an investigation. The inquiry is completed when the DO makes this determination, which will be made within 60 days of the RIO's commencement of the Inquiry. Any extension of this period will be based on good cause and recorded in the inquiry file.

The RIO will notify both the Respondent and the Complainant in writing of the DO's decision of whether to proceed to an investigation and will remind them of their obligation to cooperate in the event an investigation is opened. The RIO will also notify the president, the general counsel, the vice president for research, and the dean of the affected college or other university unit.

VI. The Investigation

A. Purpose of the Investigation

The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health. The findings of the investigation will be set forth in an investigation report.

B. Sequestration of the Research Records

The RIO will immediately sequester any additional pertinent research records that were not previously sequestered during the inquiry. This sequestration should occur before or at the time the Respondent is notified that an investigation has

begun. The need for additional sequestration of records may occur for any number of reasons, including the institution's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

C. The Investigation Committee & Process

The RIO, in consultation with the president and general counsel, will appoint an Investigation Committee and the Committee chair within 5 days of the notification to the Respondent that an investigation is planned or as soon thereafter as practicable. These individuals may be scientists, colleagues, administrators, subject matter experts, lawyers, or other qualified persons, and they may be from inside or outside the institution.

The RIO will notify the Respondent of the proposed committee membership within 5 days of appointing members of the investigation committee. If the Respondent submits a written objection for cause to any appointed member of the Investigation Committee, the RIO will immediately replace the first challenged member and determine whether to replace the other challenged members with qualified substitutes.

The investigation will normally involve examination of all documentation including, but not necessarily limited to, relevant research records, computer files, proposals, manuscripts, publications, correspondence, memoranda, and notes of telephone calls. Whenever possible, the Committee should interview the Complainant(s), the Respondent(s), and other individuals who might have information regarding aspects of the allegations. Interviews of the Respondent and all other interviews should be transcribed, or tape recorded transcripts of the interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the Investigatory file.

D. Charge to the Committee and the First Meeting

The RIO will define the subject matter of the investigation in a written charge to the Committee that: (i) describes the allegations and related issues identified during the inquiry; (ii) defines misconduct; and, (iii) identifies the name of the Respondent. The charge will state that the Committee is to evaluate the evidence and testimony of the Respondent, Complainant, and key witnesses to determine whether, based on a preponderance of the evidence, misconduct occurred and, if so, to what extent, who was responsible, and its seriousness.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional Respondents, the committee will notify the RIO, who will determine

whether it is necessary to notify the Respondent of the new subject matter or to provide notice to additional Respondents.

The Inquiry report will be available to the Investigation Committee. However, the report in no way limits the evidence available to the Committee for consideration. Inasmuch as any decision of an investigation might conflict with any conclusion of the inquiry, the investigation will be considered a de novo process.

The RIO, with the assistance of the General Counsel, will convene the first meeting of the Investigation Committee to review the charge, the Inquiry Report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The Investigation Committee will be provided with a copy of these instructions and, where federal funding is involved, the PHS or NSF, or other granting agency regulations, if any.

VII. The Investigation and Report

An investigation should ordinarily be completed within 60 days of its initiation. This includes conducting the investigation, preparing the report of findings, making the draft report available to the subject of the investigation for comment, submitting the report to the DO for approval, and submitting the report to the appropriate agency, if relevant. Any extension of this period will be based on good cause and recorded in the investigation file.

A. Draft Report

The draft report must describe the policies and procedures under which the investigation was conducted, describe how and from whom information relevant to the investigation was obtained, state the findings, and explain the basis for the findings. The report will include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct as well as a description of any sanctions imposed and administrative actions taken by the institution.

B. Comments on the Draft Report

1. <u>Respondent</u>
   The RIO will provide the Respondent with a copy of the draft Investigation Report for comment and rebuttal. The Respondent will be allowed 10 days to review and comment on the draft report. The Respondent's comments will be attached to the final report. The findings of the final report should take into account the Respondent's comments in addition to all the other evidence.

2. Complainant

The RIO will provide the Complainant, if he or she is identifiable, with those portions of the draft Investigation Report that address the Complainant's role and opinions in the investigation. The Complainant will be allowed 10 days to review and comment on that part of the draft report provided by the RIO. The report should be modified, as appropriate, based on the Complainant's comments.

3. General Counsel

The draft investigation report will be transmitted to the General Counsel for a review of its legal sufficiency. The General Counsel's comments should be incorporated into the report as appropriate.

4. Confidentiality

In distributing the draft report, or portions thereof, to the Respondent and Complainant, the RIO will inform the recipient of the confidentiality under which the draft report is made available and will establish reasonable conditions to ensure such confidentiality. For example, the RIO may request the recipient to sign a confidentiality statement or to come to his or her office to review the report.

C. Final Report

After comments have been received and the necessary changes have been made to the draft report, the Investigation Committee should transmit the final report with attachments, including the Respondent's and Complainant's comments, to the DO, through the RIO. The final report, if applicable, will be submitted through the Office of Research to ORI and/or NSF.

D. Institutional Review and Decision

Based on a preponderance of the evidence, the DO will make the final determination whether to accept the Investigation Report, its findings, and the recommended institutional actions. The DO may also return the report to the Committee with a request for further fact-finding or analysis. The DO's determination together with the Investigation Committee's report, constitute the final investigation report for purposes of agency review. If the DO's final determination varies from that of the Investigation Committee, the DO will explain in detail the basis for rendering a decision different from that of the Investigation Committee in the institution's letter transmitting the report to PHS (ORI), NSF, or other funding agency. The DO's explanation should be consistent with the particular agency's definition of misconduct, the institution's policies and procedures, and the evidence reviewed and analyzed by the Investigation Committee.

The DO will also notify both the Respondent and the Complainant in writing. In addition, the DO will determine whether law enforcement agencies, professional

societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the Respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

VIII. Requirements for Reporting to ORI or NSF Inspector

A. The decision to initiate an investigation of PHS- or NSF-funded research must be reported in writing, through the Office of Research, to the director of ORI (at DHHS) or the Inspector General of NSF before the date the investigation begins. At a minimum, the notification should include the name of the person(s) against whom the allegations have been made, the general nature of the allegation as it relates to the definition of misconduct, and the agency applications or grant number(s) involved. ORI or NSF must also be notified of the final outcome of the investigation and must be provided with a copy of the investigation report. Any significant variations from the provisions of these policies and procedures should be explained in any reports.

B. Prior to any decision to terminate an inquiry or investigation without completing all relevant requirements of the PHS or NSF regulations, the RIO, through the Office of Research, will submit a report of the planned termination to ORI or the NSF Inspector General, including a description of the reasons for the proposed termination.

C. If the university determines that it will not be able to complete an Inquiry and Investigation of federally funded research in 120 days, the RIO will submit to the respective agency a written request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken. The request will be submitted through the Office of Research. If either NSF or the PHS is the funding agency, the Office of Research may authorize an extension of the investigation such that the investigation and all administrative actions will be completed within an additional 60 days. If the request is granted, the RIO will file periodic progress reports as requested.

D. When PHS or NSF funding or applications for funding are involved and an admission of misconduct is made, the RIO, through the Office of Research, will contact the agency for consultation and advice. Normally, the individual making the admission will be asked to sign a statement attesting to the occurrence and extent of misconduct. An admission of misconduct does not constitute sufficient basis for closing a case involving PHS or NSF funds without prior approval from the agency.

E. When PHS or NSF funding is involved, the RIO, through the Office of Research, will notify the agency at any stage of the inquiry or investigation if:

1. there is an immediate health hazard involved;
2. there is an immediate need to protect federal funds or equipment;
3. there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;
4. it is probable that the alleged incident is going to be reported publicly;
5. the allegation involves a sensitive public health issue, e.g., a clinical trial;
6. there is a reasonable indication of possible criminal violation. In this instance, the institution must inform the agency within 24 hours, excluding weekend days, of obtaining that information;
7. for any other reason, the scientific community or the public should be informed.

IX. Administrative Actions

Old Dominion University will take appropriate administrative actions against individuals when an allegation of misconduct has been substantiated.

If the DO determines that the alleged misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken, after consultation with the RIO. The actions may include:

- withdrawal or correction of all pending or published abstracts and papers emanating from the research where misconduct was found.
- removal of the responsible person from the particular project, letter of reprimand, and/or special monitoring of future work.
- sanctions such as probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment.
- restitution of funds as appropriate.

X. Other Considerations

A. Termination of Institutional Employment or Resignation Prior to Completing Inquiry or Investigation

The termination of the Respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible misconduct has been reported, will not preclude or terminate the misconduct procedures.

If the Respondent, without admitting to the misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after an allegation has been reported, or during an Inquiry or Investigation, the Inquiry or Investigation will proceed. If the Respondent refuses to participate in the process after resignation, the Committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the Respondent's failure to cooperate and its effect on the Committee's review of all the evidence.

B. Restoration of the Respondent's Reputation

If the institution finds no misconduct and the respective agency concurs, after consulting with the Respondent, the RIO will undertake reasonable efforts to restore the Respondent's reputation. Depending on the particular circumstances, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of misconduct was previously publicized, or expunging all reference to the misconduct allegation from the Respondent's personnel file. Any institutional actions to restore the Respondent's reputation must first be approved by the DO.

C. Protection of the Complainant and Others

Regardless of whether the institution, ORI or NSF determines that misconduct occurred, the RIO will undertake reasonable efforts to protect Complainants who made allegations of misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the DO will determine, after consulting with the Complainant, what steps, if any, are needed to restore the position or reputation of the Complainant. The RIO is responsible for implementing any steps the DO approves. The RIO will also take appropriate steps during the inquiry and investigation to prevent any retaliation against the Complainant.

D. Allegations Not Made in Good Faith

The DO will determine whether the Complainant's allegations of misconduct were made in good faith. If an allegation was not made in good faith, the DO will determine whether any administrative action should be taken against the Complainant.

E. Interim Administrative Actions

The Vice President for Research will take interim administrative actions, as appropriate, to protect federal funds and ensure that the purposes of the federal financial assistance are carried out.

XI. Record Retention

After completion of a case and all ensuing related actions, the RIO will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the RIO or committees. The RIO will transfer the file to the Provost and Vice President for Academic Affairs, for safekeeping, who will maintain the file for three years after completion of the case to permit later assessment of the case. ORI, NSF, or other authorized personnel will be given access to the records upon request.

APPENDIX

This appendix summarizes the responsibilities assigned to the DO and the RIO. The appendix is a review of the duties assigned to these two officials.

Responsibilities of the DO

- Determines whether an investigation is warranted
- Determines whether to accept the investigation report
- Determines institutional administrative actions if misconduct is found
- Explains why the institution does not agree with the investigation report, if such is the case, in a transmittal letter to ORI or NSF
- Determines institutional administrative actions against "bad faith" Complainants
- Informs ORI or NSF that an investigation is not warranted, if such is the case, if the agency requested the inquiry

Responsibilities of the RIO

- Receives allegations of misconduct
- Receives allegations of retaliation
- Receives reports of "bad faith" allegations
- Receives reports of violations of PHS or NSF regulations

Assessment of Allegations

- Conducts preliminary assessment of allegations
- Determines whether an inquiry is warranted
- Refers non-scientific misconduct issues to appropriate institutional or Federal office

Conduct of Inquiry

- Initiates inquiry process
- Notifies appropriate institutional officials, the Respondent, and, if necessary, the appropriate agency that an inquiry is underway
- Sequesters research or other relevant records
- Conducts the inquiry
- Determines whether additional expertise is needed
- Establishes conditions of confidentiality
- Protects against bias or conflicts-of-interest
- Develops the charge
- Meets ORI or NSF notification requirements
- Takes appropriate interim administrative actions
- Seeks advice from federal agencies when an admission of misconduct is made
- Determines whether a time extension will be allowed
- Provides a draft report to the Respondent
- Provides appropriate portions of the draft report to Complainant
- Transmits the final report and comments to the DO

- Communicates the decision of the DO to the Complainant, and Respondent.
- Notifies ORI or NSF if an investigation will be conducted
- Provides the final report and inquiry file to ORI or NSF upon request, if relevant
- Retains all inquiry records
- Reports "bad faith" allegations to the DO
- Undertakes reasonable efforts to restore the reputation of cleared Respondents
- Undertakes reasonable efforts to protect "good faith" Complainants and others who cooperated with the inquiry

Conduct of Investigation

- Notifies the Respondent that an investigation will be conducted
- Sequesters additional research records when necessary
- May conduct the investigation in appropriate cases
- Appoints the investigation official or committee
- Replaces the first challenged person and determines whether to replace persons challenged later
- Determines whether additional expertise is needed
- Establishes conditions of confidentiality
- Protects against bias or conflicts-of-interest
- Develops the charge
- Convenes the first meeting of the investigation committee
- Provides the investigation official or committee with advice on appropriate procedures
- Meets ORI or NSF notification requirements, if relevant
- Takes appropriate interim administrative actions
- Seeks advice from federal agencies when an admission of misconduct is made
- Requests time extensions if necessary from ORI or NSF and submits progress reports
- Submits plan to terminate an investigation to ORI or NSF
- Provides a draft report to the Respondent
- Provides appropriate portions of the draft report to the Complainant
- Transmits the final report and comments to the DO
- Notifies the Respondent and Complainant of the institution's findings and actions
- Retains all records of investigation
- Reports "bad faith" allegations to the DO
- Undertakes reasonable efforts to restore the reputation of cleared Respondents
- Undertakes reasonable efforts to protect "good faith" Complainants and others who cooperated with the inquiry

Post-Investigation

- Responds to requests from federal agencies for additional information or assistance during the review process
- Responds to requests from ORI for additional information or assistance during a Departmental Appeals Board (“DAB”) appeal

INQUIRY & INVESTIGATION PROCEDURES

TIMELINE	STEPS
Day 1 Inquiry Begins	RIO determines sufficient evidence of possible misconduct in scientific research or scholarly activities. RIO immediately secures all original research records and materials relevant to the allegation. RIO may consult with federal agencies through Office of Research
Days 2-29	RIO interviews Complainant, Respondent, key witnesses and examines relevant research records & materials.
Day 30	RIO completes evaluation of evidence and testimony and submits a draft report of his/her conclusion to DO, Complainant, and Respondents.
Day 40	Deadline for Complainant and Respondent to submit to RIO their comments on draft Inquiry report.
Day 50	RIO submits to DO the final inquiry report and any comments from Complainant and Respondent.
Day 60 Inquiry Ends	DO makes final determination of whether findings from the inquiry provide sufficient evidence of possible misconduct to justify conducting an investigation.
Day 61 Investigation Begins (if applicable)	The RIO notifies both the Respondent and the Complainant in writing of the DO's decision of whether to proceed to an investigation and will remind them of their obligation to cooperate in the event an investigation is opened. The RIO will also notify the president, the general counsel, the vice president for research, and the dean of the affected college or other university unit. RIO immediately sequesters any additional pertinent research records.
Day 65	RIO in consultation with the president and General Counsel completes appointment of an Investigating Committee.
Day 65	RIO notifies Respondent of the proposed members of the Investigative Committee.
Day 70	Deadline for Respondent to submit in writing any objection for cause to any appointed

	member of the Investigation Committee. The RIO will immediately replace the first challenged member and determine whether to replace the other challenged members or experts with qualified substitutes.
Day 75	First meeting of the Investigation Committee.
Days 76-100	Investigation Committee conducts its examination of evidence and submits a draft report of its findings to the RIO.
Day 101	RIO provides Respondent with copy of draft Investigating Committee report for comment and rebuttal. RIO provides Complainant with those portions of the draft report that address the Complainant's role and evidence/testimony.
Day 110	Deadline for Respondent and Complainant to submit to the Investigating Committee comments and rebuttal on the draft report.
Day 113	Investigating Committee transmits its final report with attachments, including the Respondent's and Complainant's comments, to the DO, through the RIO.
Day 120 Investigation Ends	Based on the preponderance of the evidence, the DO will make the final determination. If this determination varies from that rendered by the Investigating Committee, the DO will provide a full explanation. Deadline for completion of the Investigation if PHS or NSF funded activities. If has not been completed by this day, the RIO must submit to ORI and/or NSF a written request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken. The request will be submitted through the Office of Research. DO will also notify the Respondent and Complainant in writing of the final determination.