



misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results) of any type, regardless of source of funds, for any person who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with this institution, and includes applications or proposals for research, research training or activities related to research or research training, research records produced in the course of research, research training or activities related to research or research training. This includes any research proposed, performed, reviewed, or reported, or any research record generated from research, regardless of whether an application or proposal for funds resulted in a grant, contract, cooperative agreement, or other form of support.

This statement of policy and procedures does not apply to authorship or collaboration disputes and applies only to allegations of research misconduct that occurred within six years of the date the institution or a sponsoring agency received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR § 93.105(b).

## **II. Definitions**

**Allegation:**

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**Research:** a systematic experiment, study, evaluation, demonstration, survey, or other scholarly work designed to develop or contribute to general or specific knowledge.

**Research Integrity Officer (RIO):** the individual with primary responsibility for implementation of the institution's policies and procedures on research misconduct and for assisting with inquiries and investigations.

**Research misconduct proceeding**

### **III. Rights and Responsibilities**

#### **A. Research Integrity Officer**

The Senior Associate Vice President for Academic Affairs shall serve as the RIO

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comments attached to the report;

- Be notified of the outcome of the inquiry, and receive a copy of the inquiry report that includes a copy of, or refers to 42 CFR Part 93 and the institution's policies and procedures on research misconduct;
- Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins (within 30 days after the institution decides to begin an investigation), and be notified in writing of any new allegations, not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;
- Be interviewed during the investigation, have the opportunity to correct the recording or transcript, and have the corrected recording or transcript included in the record of the investigation;
- Have interviewed during the investigation any witness who has been reasonably identified by the respondent as having information on relevant aspects of the investigation, have the recording or transcript provided to the witness for correction, and have the corrected recording or transcript included in the record of investigation; and
- Receive a copy of the draft investigation report and, concurrently, a copy of, or supervised access to the evidence on which the report is based, and be notified that any comments must be submitted within 30 days of the date on which the copy was received and that the comments will be considered by the institution and addressed in the final report.

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

#### D. Deciding Official

The DO will receive the inquiry report and after consulting with the RIO and/or other institutional officials, decide whether an investigation is warranted. An investigation is warranted if there is vestMC /18b92(is)rt(e)-1 (c)-1

research training; and (2) Preliminary information-gathering and preliminary fact-finding from the inquiry indicates that the allegation may have substance.

Any finding that an investigation is warranted must be made in writing by the DO and must be provided to appropriate federal agencies, together with a copy of the inquiry report within 30 days of the finding. If it is found that an investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the inquiry is retained for at least 7 years after termination of the inquiry, so that federal agencies may assess the reasons why the institution decided not to conduct an investigation.

The DO will receive the investigation report and, after consulting with the RIO and/or other institutional officials, decide the extent to which this institution d f ( )1 tutiofiry5Bal







so that potential evidence of research misconduct may be identified, whether it is within the jurisdiction of this policy, and whether the allegation falls within the definition of research misconduct in this policy. An inquiry must be conducted if these criteria are met.

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

**B. Initiation and Purpose of the Inquiry**

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

**C. Notice to Respondent; Sequestration of Research Records**

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

**D. Appointment of the Inquiry Committee**

The RIO, in consultation with other institutional officials as appropriate, will

appoint an inquiry committee and committee chair within 15 days of the initiation of the inquiry. The inquiry committee must consist of three or five total members, including the appointed chair. Members must be individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry.

E. Charge to the Committee and First Meeting

Then the inquiry committee will evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether an investigation is warranted based on the criteria in this policy. The scope of the inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of research misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, the institution shall promptly consult with appropriate federal agencies, if any, to determine the next steps that should be taken.

G. Time for Completion

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

## **VI. The Inquiry Report**

A. Elements of the Inquiry Report

A written inquiry report must be prepared that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of research misconduct; (3) the sources of support, including, for example, grant numbers, grant applications, contracts and publications listing federal support; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent or complainant.

The inquiry report should include, as a separate attachment: the names and titles of the committee members and experts who conducted the inquiry; a summary of the inquiry process used; a list of the research records reviewed; summaries of any interviews; and whether any other actions should be taken if an investigation is not recommended.

Institutional counsel should review the report for legal sufficiency. Modifications should be made as appropriate in consultation with the RIO and the inquiry committee.

B. Notification to the Respondent and Opportunity to Comment

The RIO shall notify the respondent whether the inquiry found an investigation to be warranted, include a copy of the draft inquiry report for comment within 10 working days, and include a copy of the institution's policies and procedures on research misconduct. The complainant shall certify confidentiality prior to accessing the report by executing a confidentiality agreement with the University.

Any comments that are submitted by the respondent or complainant will be attached to the final inquiry report. Based on the comments, the inquiry committee may revise the draft report as appropriate and prepare it in final form. The committee will deliver the final report to the RIO.

C. Institutional Decision

1. Decision by Deciding Official

The RIO will transmit the final inquiry report and any comments to the DO, who will determine in writing whether an investigation is warranted. The inquiry is completed when the DO makes this determination.

2. Documentation of Decision Not to Investigate

clinical trials or potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation must be set forth in an investigation report.

B. Notifying External Funding Agencies and Respondent; Sequestration of Research Records

Within 30 days of the DO's decision to conduct an investigation but prior to the first day of the investigation,

the investigation and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the respondent and complainant and conduct the investigation. Individuals appointed to the investigation committee may also have served on the inquiry committee. When necessary to secure the necessary expertise or to avoid conflicts of interest, the RIO may select committee members from outside the institution.

The RIO will inform the respondent in writing of the proposed committee membership to give the respondent an opportunity to object to a proposed member based upon a personal, professional, or financial conflict of interest. The respondent shall have five calendar days to object in writing to the appointments. The DO make the final determination of whether a conflict exists.

D. Charge to the Committee and the First Meeting

1. Charge to the Committee

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

- Describes the allegations and related issues identified during the inquiry;
- Identifies the respondent;
- Informs the committee that it must conduct the investigation as prescribed in paragraph E. of this section;
- Defines research misconduct;
- Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;
- Informs the committee that in order to determine that the respondent committed research misconduct it must find that a preponderance of the evidence establishes that: (1) research misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the respondent was responsible for the misconduct.



intentionally, knowingly, or recklessly; and

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responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the respondent has pending with external agencies.

B. Comments on the Draft Report and Access to Evidence

1. Respondent

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

2. Confidentiality

In distributing the draft report, or portions thereof, to the respondent, the RIO will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may require that the recipient sign a confidentiality agreement.

C. Decision by Deciding Official

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

When a final decision on the case has been reached, the RIO will notify both the respondent and the complainant in writing. After informing external funders as necessary, 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.

D. Notice to External Agencies of Institutional Findings and Actions

Unless an extension has been granted or external agency policy differs, the RIO must, within the 120-day period for completing the investigation submit the

otherwise limit any of the institution's responsibilities to investigate research misconduct.

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

B. Restoration of the Respondent's Reputation

Following a final finding of no research misconduct, including external funder's concurrence, as required, the RIO must, at the request of the respondent, undertake all reasonable and practical efforts to restore the respondent's reputation. Depending on the particular circumstances and the views of the respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome

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member acted in good faith. If the DO determines that there was an absence of good faith he/she will determine whether any administrative action should be taken against the person who failed to act in good faith.

**XI. Adoption and Amendment**

- A. This policy shall be in effect from the date of adoption by Shared Governance of the University of North Alabama
  
- B. Any changes required by law may be approved by the General Counsel and updated with appropriate date of effect identified without going through Shared Governance. Shared Governance Executive Committee and the University Executive Council will be notified of those changes.

Approved 10/21/2020