

**MONTCLAIR STATE**  
UNIVERSITY

<b>MSU Research Misconduct Policy</b>	
	<b>Effective Date:</b> <b>February 2014</b>
<b>Policy Owner: Research Integrity and Compliance</b> <b>Responsible Office:</b> Research Integrity and Compliance <b>Policy Contact:</b> Director, Research Compliance	<b>Revision Date:</b> <b>May 2018</b>
<b>Policy Summary:</b> Create a standardized procedure for allegations of research misconduct. To establish transparency and accountability with stakeholders, responsible offices and affected MSU community members.	<b>January 2020</b>
<b>Reviewed by:</b> Vice Provost for Research, Director of OSP, Director of Research Compliance <b>Approved by:</b> Vice Provost for Research, Director of Research Compliance, Director of OSP	Date: February 2014; January 2020  Date: February 2014; January 2020
<b>Policy Stakeholders:</b> Provost, Vice Provost for Research, Office of Research, Office of Sponsored Programs, Researchers, Research Compliance	

## I. Policy Statement and Policy Scope

### A. General Policy

Montclair State University recognizes the key role research plays in fostering intellectual vitality. To maintain high standards of professional conduct, promote research integrity and to comply with federal regulations governing the receipt of federal funding for research, Montclair State University has established guidelines and procedures that will govern the institutional response to allegations of misconduct in research raised against scholars. The MSU policy is based on the U.S. Department of Health and Human Services [Public Health Service Policies on Research Misconduct – Final Rule, Code of Federal Regulations, Vol. 42, Part 93 \(Federal Register, Vol. 70, p. 28370 \(May 17, 2005\)\)](#)

### B. Scope and Application

1. This policy (“Policy”) applies to all research activities proposed and conducted by academic, scientific and professional staff, employees, students, and independent contractors of the University, in the conduct of

their research activities, whether or not they are externally sponsored, during their employment by or term of their contract with the University.

2. This Policy may also, in the discretion of the Vice Provost for Research, be used to respond to allegations of non-compliance with legal and ethical standards applicable to human subjects and animal research.

## II. Who should read this Policy

- Faculty/Staff
- Researchers
- Compliance Committees
- Research Compliance Staff
- Office of Research
- Office of the Provost
- University Research Committee
- University students

## III. Definitions

**Allegation** means a disclosure of possible research misconduct through any means of communication. The disclosure may be a written or oral statement or other communication to an institutional or HHS official.

**Complainant** means the individual(s) who submits an allegation of Research Misconduct.

**Good Faith**, as applied to a Complainant or witness, means having a belief in the truth of one's allegations or testimony such that a reasonable person in the Complainant's or witness's position could have formed based on the information known to the Complainant or witness at the time. An allegation or testimony is not in good faith if made with knowing it is false, or in reckless disregard for information that would negate the allegation or testimony. Good Faith, as applied to an Inquiry or Investigation committee member, means cooperating with the research misconduct proceeding by carrying out the duties assigned impartially for the purpose of helping an institution meet its responsibilities under this part. A committee member does not act in good faith if his or her acts on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest.

**HHS** means the U.S. Department of Health and Human Services, the parent agency of the Public Health Service (PHS) and the National Institutes of Health.

**Inquiry** means preliminary information-gathering and preliminary fact-finding to determine whether an allegation or apparent instance of Research Misconduct has substance and if an Investigation is warranted.

**Inquiry Panel** is defined by Section IV,B-4 of this Policy.

**Investigation** means the formal development of a factual record and the examination of that record leading to a finding with respect to Research Misconduct.

**Investigation Committee** is defined by Section IV,D-3 of this Policy.

**NSF** means the National Science Foundation.

**Office of Research Integrity** or **ORI** means the office to which the Secretary of Health and Human Services has delegated responsibility for addressing research integrity and misconduct issues related to Public Health Service activities.

**Preponderance of the Evidence** means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

**Provost** means the Provost or his/her designee.

**Research Misconduct**, as defined by the federal government, means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. It does not include honest error or differences of opinion. A finding of Research Misconduct requires that the misconduct be committed intentionally, knowingly, or recklessly. A finding of Research Misconduct also requires that there be a significant departure from accepted practices of the relevant research community.

- Fabrication is making up data or results and recording or reporting them.
- 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.
- Plagiarism is the appropriation of another person's ideas, processes, results or words without giving them appropriate credit.

**Research Record or Record** means any data, document, computer file, compact disc, 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; correspondences; videos; photographs; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms.

**Respondent** means the person against whom an allegation of Research Misconduct is directed or who is the subject of a Research Misconduct proceeding.

**Retaliation** means an adverse action taken against a Complainant, witness, or committee member by an institution or one of its members in response to a Good Faith allegation of Research Misconduct or Good Faith cooperation with a Research Misconduct proceeding.

**Vice Provost for Research (VPR)** means the Vice Provost for Research or their designee.

## **IV. Policy and Policy Description**

### **A. General Procedures**

#### **1. Reporting Allegations of Research Misconduct**

Individuals with concerns regarding potential research misconduct should:

- Contact the University's Research Compliance Officer at 973.655.7781;
- Contact your supervisor, department chair or Dean; or
- Contact either the University's Ethics Officer or the University's third party vendor designated to receive anonymous complaints, online or by phone at <http://www.montclair.edu/ethics/>.

#### **2. Confidentiality**

To the extent allowed by law, the University shall maintain the identity of respondents and complainants securely and confidentially and shall not disclose any identifying information, except to: (1) those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and (2) ORI as it conducts its review of the research misconduct proceeding and any subsequent proceedings (if applicable).

To the extent allowed by law, any information obtained during the research misconduct proceeding that might identify the subjects of research shall be maintained securely and confidentially and shall not be disclosed, except to those who need to know in order to carry out the research misconduct proceeding.

#### **3. Responding to Allegations**

In responding to allegations of Research Misconduct, the Vice Provost for Research or its designee (also collectively referred to as "VPR") shall:

1. Undertake an Inquiry or Investigation in a timely, objective, thorough, and competent manner.
2. Ensure reasonable precautions are taken to avoid bias and real or apparent conflicts of interest on the part of those involved in conducting the Inquiry or Investigation. Specifically, reasonable steps shall be taken to ensure that the VPR, members of Inquiry Panels and Investigation Committees, and experts are unbiased and do not have unresolved personal, professional or financial conflict of interest with the Respondent and Complainant involved in the case in question. In making this determination, consideration shall be given to whether the individual (or any members of his or her immediate family) has any of the following involvements with the Respondent or Complainant: financial involvement; coauthor on a publication; collaborator or co-investigator; party to a scientific controversy; supervisory or mentor relationship; other special relationship such as a close personal friendship, kinship, a physician/patient relationship or other biased relationship. The Complainant and the Respondent shall have the right to comment on whether the Vice Provost for Research and members of Inquiry Panels and Investigation Committees meet the above criteria. The Complainant or Respondent shall have five (5) calendar days within which to submit a written objection to any appointed member of the committee based on bias or conflict of interest. Based on the comments of Complainant or Respondent, the Vice Provost for Research may replace the Inquiry Panel member in question. The Provost may replace the Vice Provost for Research if,

based on the comments of the Complainant or Respondent, he/she does not meet the stated criteria.

3. Immediately notify ORI (in cases involving PHS-funded research) and/or other federal research sponsors supporting the research in question (to the extent required by those sponsors' regulations) if:

- a. there is an immediate health hazard involved;
- b. there is an immediate need to protect federal funds or equipment;
- c. there is an immediate need to protect the interests of the Complainant or Respondent as well as his or her co-investigators and associates, if any;
- d. it is probable that the alleged incident is going to be reported publicly;
- e. the allegation involves an issue that could be publicly sensitive, e.g., a clinical trial; or
- f. there is a reasonable indication of a possible federal criminal violation. In this instance, if PHS funding is involved, the University should inform ORI within 24 hours of obtaining that information.

4. Take interim administrative actions, as appropriate, to protect federal funds and public health and safety, and to ensure that the purposes of the federal financial assistance agreement are carried out.

#### **4. Protecting the Complainant**

A Complainant who has made a Good Faith allegation and all other persons who cooperate with the Inquiry and Investigation, shall be treated with fairness and respect, and shall not be the subject of Retaliation. Any alleged or apparent Retaliation should be reported to the Provost. In addition, federal laws and regulations require that institutional policies protect to the maximum extent possible, the privacy of those who in good faith report apparent misconduct. Accordingly, if a Complainant requests anonymity, the University will make an effort to honor the request during the Inquiry to the extent permitted by law. If the matter is referred to an Investigation Committee and the Complainant's testimony is required, anonymity may no longer be guaranteed.

#### **5. Protecting the Respondent**

Respondent shall be treated with fairness and respect and reasonable steps shall be taken by the Vice Provost for Research and Investigation Committee to ensure that this Policy is followed. The confidentiality of the Respondent will be protected to the maximum extent possible in consideration of public health and safety and/or the thoroughness of the Inquiry or Investigation. If a determination is made that the Respondent has not committed Research Misconduct, the University shall make reasonable efforts to restore his or her reputation within the University.

#### **6. Legal Counsel**

The Respondent may be represented by an attorney of their choosing, but an attorney shall not be provided by the University. The Respondent may request its union representative attend all investigatory meetings and receive all investigatory reports. The Vice Provost for Research and/or Director of Research Compliance may request the Office of University Counsel provide advice to the Investigation Committee. Attorneys for the Respondent and Investigation Committee may be present at interviews or meetings

conducted in the course of the Inquiry and Investigation.

## **7. Allegations Not Made in Good Faith**

If at any time an Inquiry Panel or Investigatory Committee determines that an allegation of Research Misconduct was not made in Good Faith, it shall report its determination to the Vice Provost for Research. If the Vice Provost for Research, independently or on the basis of a recommendation from an Inquiry Panel or Investigatory Committee, determines that an allegation of Research Misconduct was not made in Good Faith, the Inquiry or Investigation shall be discontinued. Appropriate actions may be taken against a Complainant who is found to have made an intentionally false Allegation against a Respondent.

## **8. Early Termination of Proceedings**

If the matter involves federal research support and the University plans to terminate an Inquiry or Investigation prior to a decision to take Administrative Action, the Vice Provost for Research with assistance of the Director of OSP, shall notify responsible federal authorities of the termination of the Inquiry or Investigation, and the reasons therefore.

The respondent shall have the opportunity at any time during the proceedings to admit that research misconduct occurred and that they committed the research misconduct. The Vice Provost for Research 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.

## **9. Referral of Non-Research Misconduct Issues**

When the Allegation identifies misconduct that does not involve research, the Vice Provost for Research should refer the allegation to the University official having administrative oversight over the matter.

## **10. Requirements for Reporting to Federal Authorities**

Certain federal research sponsors, such as HHS/PHS and NSF, require the reporting of significant actions in research misconduct matters, such as the institution's decision to initiate an Investigation, the institution's determination that it will not be able to complete an Inquiry or Investigation in the time specified under federal regulations, or the closing of a case on the basis that the Respondent has admitted guilt. The Vice Provost for Research, in consultation with the Office of Sponsored Programs and University Counsel, shall comply with such reporting requirements.

## **11. Record Retention**

Records of Research Misconduct proceedings (including records of assessments and Inquiries that do not lead to Investigation) shall be retained for seven years after completion of proceedings, or such longer time period as may be required by the responsible federal agency.

# **B. Assessment of Allegation and Inquiry**

## **1. Preliminary Assessment of Allegations to determine if Inquiry is warranted.**

Upon receiving an Allegation of Research Misconduct, the Vice Provost for Research and the Dean of the College/School within which the Research is being performed, shall, within 15 working days and without notice to any of the parties involved, consult to determine whether an Inquiry is warranted. If PHS or other federal funding is involved, the Director of the Office of Sponsored Programs will be notified.

## **2. Purpose of Inquiry; Criteria Warranting Investigation**

The purpose of an Inquiry is to conduct an initial review of the evidence to determine whether to conduct an Investigation. Therefore, an Inquiry does not require a full review of all the evidence related to the allegations.

An Inquiry is warranted if the allegation:

- a. Falls within the definition of Research Misconduct under this Policy; and
- b. Is sufficiently credible and specific so that potential evidence of Research Misconduct may be identified.

## **3. Notification of Complainant and Respondent; Sequestration of Research Records**

The Vice Provost for Research will make a good faith effort to notify the Complainant and Respondent in writing of the Allegation within a reasonable time after the Inquiry has commenced. If the Inquiry subsequently identifies additional Respondents, they must also be notified in writing of the Inquiry. The Vice Provost for Research shall take reasonable steps to obtain custody of all the research records and any other evidence needed to conduct the Inquiry, inventory the records and evidence, and sequester them in a secure manner. In such cases 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 as long as those copies are substantially equivalent to the evidentiary value of the instruments.

The notification to the Complainant and the Respondent should:

- a. Identify the research project in question and the specific Allegation;
- b. Provide a copy of this Policy
- c. Inform the Respondent that they will be given an opportunity to provide written comments to the institution's draft Inquiry Report

## **4. Designation of Inquiry Panel;**

Within 15 working days after the Vice Provost for Research's determination to undertake an Inquiry, the VPR shall appoint the Inquiry Panel. The Inquiry Panel shall consist of individuals who do not have a real or apparent conflict of interest with those involved in the inquiry, and have the necessary expertise to evaluate the evidence and issues related to the Allegation, interview the principals and key witnesses, and conduct the Inquiry. The members of the Inquiry Panel may be employees of the University. However, the Vice Provost for Research may also appoint individuals to the Inquiry Panel who are not employees of the University if necessary to obtain the relevant expertise and/or avoid a conflict of interest.

### **a) Use of Outside Experts**

The Inquiry Panel may also consult with experts as necessary if special expertise is warranted regarding the analysis of evidence. If consulted, such experts shall serve in a strictly advisory capacity to the Inquiry Panel and shall not vote. At the request of the Inquiry Panel, experts may interview witnesses and respond to questions during Panel deliberations. The experts chosen may or may not be employees of the University.

## **5. Charge to the Inquiry Panel and First Meeting**

At the first meeting of the Inquiry Panel, the Vice Provost for Research shall:

1. Appoint a chair to the committee and assign the Director of Research Compliance to administrative support of the Inquiry Panel.

2. Set a time for completion of the Inquiry;
3. State the purpose of the Inquiry is to conduct an initial review of the evidence, including the testimony of the Respondent, Complainant and key witnesses, to determine whether an Investigation is warranted, not to determine whether Research Misconduct occurred or who was responsible;
4. State that an Investigation is warranted if the Inquiry Panel determines: (1) there is a reasonable basis for concluding that the Allegation falls within the definition of Research Misconduct and is within the jurisdictional criteria, and (2) the Allegation may have substance, based on the Inquiry Panel's review during the inquiry process.

At this first meeting, the Vice Provost for Research or designee will review the Allegation with the Inquiry Panel; discuss the Allegation and any related issues and identify the appropriate procedures in this Policy to be followed for conducting the Inquiry; assist the Inquiry Panel with organizing plans for the Inquiry, and answer any questions raised by the Inquiry Panel. The Vice Provost for Research will be available throughout the Inquiry to advise the Inquiry Panel as needed.

## **6. Inquiry Panel Procedures**

The Inquiry Panel must interview the Complainant, the Respondent, and key witnesses and examine relevant Research records and materials. Supervised access to the data and/or documents should be available to the Respondent and the Complainant, and to other witnesses as appropriate. Witness interviews shall be summarized in writing by the Inquiry Panel or its designee, and witnesses given the opportunity to review and correct such summaries of their own statements. The Inquiry Panel will make a recommendation to the Vice Provost for Research as to whether an investigation is warranted based on the criteria in this Policy and applicable federal regulations. The scope of the Inquiry does not include deciding whether Research Misconduct has occurred.

If the Respondent has made an admission of Research Misconduct, the Inquiry Panel may recommend in the Inquiry report that Research Misconduct has occurred. The University shall promptly report the admission of Research Misconduct to the Office of Research Integrity (ORI) to the extent required by federal regulation.

## **7. Time for Completion of Inquiry**

The Inquiry must be completed within 60 calendar days of the appointment of the Inquiry Panel unless circumstances clearly warrant a longer period and the Vice Provost for Research grants an extension. If the Inquiry takes longer than 60 days to complete, the Inquiry Report must include a summary of the reasons for exceeding the 60 day period.

# **C. Inquiry Report**

## **1. Elements of Report**

The Inquiry Panel must prepare a written report that includes the following elements:

- a. The name and position of the Respondent;
- b. A description of the allegations of Research Misconduct;



- c. A description of any external support for the research giving rise to the Allegations, including, for example, grant and contract numbers and references to grant applications;
- d. References for any publications involving the research in question;
- e. Any comments on the report by the Respondent, the Complainant, or a witness;
- f. A recommendation to the Vice Provost for Research as to whether an Investigation is warranted, and a statement of the basis for this recommendation.

## **2. Notification to the Respondent and Opportunity to Comment**

The Respondent shall be provided with a draft of the Inquiry Panel report and shall have 10 days to provide written comments on it. The Inquiry Panel may also make relevant portions of the Inquiry Report available to the Complainant and/or witnesses (but not give them a copy), for comment. In preparing its final report, the Inquiry Panel shall consider and attach any comments made by the Respondent (and by the Complainant and/or witnesses, if applicable) on the draft Inquiry Panel report. As a condition to review the Inquiry Report, the recipient may be required to sign a confidentiality agreement with the University.

## **3. Vice Provost for Research's Decision on Inquiry Panel's Recommendation.**

The chair of the Inquiry Panel shall transmit the Inquiry Report to the VPR. The Vice Provost for Research shall decide whether the findings from the Inquiry warrant conducting an Investigation. The Inquiry is completed when the Vice Provost for Research makes this determination.

## **4. Notice of Results of Inquiry; Report to Federal Authorities.**

The Vice Provost for Research shall notify the Respondent, the Complainant, Provost and appropriate University officials in writing of his or her decision whether to proceed to an Investigation. The notice to the Respondent must include a copy of the final Inquiry Report. To the extent required by federal regulation, the Vice Provost for Research shall provide notice to federal authorities concerning the Inquiry and the decision whether an Investigation is warranted. For example, for PHS-funded research, regulations require that institutions provide ORI with the written finding of the Vice Provost for Research and a copy of the Inquiry Report. (Code of Federal Regulations, Vol. 42, Sec. 93.309)

## **5. Documentation of Decision Not to Investigate**

If the Vice Provost for Research decides that an Investigation is not warranted, the Director of Research Compliance Officer shall maintain for 7 years after the termination of inquiry sufficiently detailed documentation of the Inquiry to permit a later assessment by ORI. These documents must be provided to ORI or other authorized HHS personnel upon request.

# **D. Investigation**

## **1. Initiation and Purpose of Investigation**

If the Vice Provost for Research determines that an Investigation is warranted, he or she shall, within 15 working days after such determination, appoint an Investigatory Committee. The purpose of the Investigation is to explore the Allegations in detail, to examine the evidence in depth, and to determine whether Research Misconduct has been committed, by whom, and to what extent.

## **2. Notify the Respondent and Office of Research Integrity. Sequestration of Research Records**

The Vice Provost for Research must, within a reasonable time after determining that an Investigation is warranted: (1) notify the ORI Director of the decision to begin the Investigation and provide ORI a copy of the Inquiry Report (in cases involving PHS funded research), and (2) notify the Respondent in writing of the Allegations to be investigated, and (3) take reasonable and practical steps to obtain custody of and sequester in a secure manner, all research records and evidence needed to conduct the Investigation that were not previously sequestered during the Inquiry.

## **3. Appointment of the Investigation Committee; Use of Outside Experts**

The Vice Provost for Research shall appoint individuals to the Investigatory Committee in consultation with the responsible Provost, Vice President, Dean or responsible senior administrator. For cases in which the Respondent is a student, a person holding an academic appointment or a staff member in a Faculty or other academic unit, the Provost shall appoint individuals to the Investigatory Committee in consultation with other University Officials as appropriate.

The Investigatory Committee shall consist of individuals who do not have real or apparent conflicts of interest in the Allegation, and have the necessary expertise to evaluate the evidence and issues related to the Allegation, interview the principals and key witnesses, and conduct the Investigation. These individuals may be scientists, administrators, subject matter experts, lawyers, or other qualified persons, and they may or may not be employees or contractors of the University.

If there is an allegation involving individuals from different categories of employees and/or students, the Vice Provost for Research shall confer with the appropriate University Officials and determine a single, coordinated process for conducting the Investigation.

The Investigation Committee shall determine whether experts other than those appointed to the Investigation Committee need to be consulted during the Investigation to provide expertise regarding the analysis of evidence. If consulted, such experts shall serve in a strictly advisory capacity to the Investigation Committee and shall not vote. At the request of the chair of the Investigation Committee, experts may interview witnesses and answer questions during Investigation Committee deliberations. The experts chosen may or may not be employees or contractors of the University.

## **4. Charge to the Investigation Committee and the First Meeting**

At the first meeting of the Investigation Committee, the Vice Provost for Research shall:

- a. Appoint the chair of the committee;
- b. Describe the Allegations and related issues identified during the Inquiry
- c. Identify the Respondent;
- d. Inform the Investigation Committee that it must conduct the Investigation in accordance with this Policy
- e. Inform the Investigation Committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, Research Misconduct has occurred, and if so, the type and extent of it, and who was responsible;
- f. Inform the Investigation Committee that in order to determine that the Respondent committed Research Misconduct it must find, by a preponderance of the evidence, 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 Research Misconduct is a significant departure from accepted practices of the relevant research community; and (3) the Respondent committed the Research Misconduct intentionally, knowingly, or recklessly; and

- g. Inform the Investigation Committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and 42 CFR Part 93 as applicable.
- h. Review the Allegation, 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 this Policy and procedures and 42 CFR Part 93. The Director of Research Compliance will be present or available throughout the investigation to advise the committee as needed.

## **5. Investigation Process.**

In conducting its Investigation, the Investigatory Committee shall:

- a. Use diligent efforts to ensure that the Investigation is thorough and sufficiently documented and includes examination of all Research Records and evidence relevant to reaching a decision on the merits of the allegations;
- b. Take reasonable steps to ensure an impartial and unbiased Investigation occurs to the maximum extent practical; interview each Respondent, Complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the Investigation, including witnesses identified by the Respondent, and maintain detailed records. The Committee shall record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the Investigation; and
- c. Pursue diligently all significant issues and leads discovered, including any evidence of additional instances of Research Misconduct, and continue the Investigation to completion.

## **6. Time Limit for Completing Investigation**

The Investigation Committee shall use its best efforts to complete the Investigation within 120 days. If the Investigation Committee is unable to complete the Investigation within 120 days, the Vice Provost for Research may grant an extension of time. An extension may require approval of the responsible federal agency. For example, in cases involving PHS-funded research, it is necessary to obtain ORI approval to extend the Investigation beyond 120 days. (See Code of Federal Regulations, Vol. 42, Sec. 93.311)

## **E. Investigation Report**

The Investigation Report shall contain the same information which must be included in the Inquiry Report regarding the nature of the Allegations, sources of external support, and Research Records and evidence reviewed. In addition, the Investigation Report shall provide, for each separate allegation of Research Misconduct identified during the Investigation, a finding as to whether Research Misconduct did or did not occur.

### **1. Elements of the Investigation Report**

The Investigation Committee shall draft a written report of the Investigation that includes the following:

- a. Describes the nature of the Allegation, including identification of the Respondent;
- b. Describes and documents the PHS support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing PHS support;
- c. Describes the specific allegations of Research Misconduct considered in the investigation;
- d. Includes the institutional policies and procedures under which the investigation was conducted, unless those policies and procedures were provided to ORI previously;
- e. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
- f. Includes a statement of findings and recommendations to the Vice Provost for Research for each Allegation identified during the investigation.[i] Each statement of findings must: (1) identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the Respondent, including any effort by Respondent to establish by a preponderance of the evidence that he or she did not engage in Research Misconduct because of honest error or a difference of opinion; (3) identify the specific PHS support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the respondent has pending with non-PHS federal agencies.[ii]

## **2. Notification of Respondent and Opportunity to Comment**

The Respondent shall be provided with the draft Investigation Report and concurrently a copy of, or supervised access to, the evidence on which the report is based. The Respondent shall have 30 calendar days (which time shall be part of the total time for the Investigation) to provide written comments on it. The Investigation Committee may also make relevant portions of the report available to the Complainant and/or witnesses (but not give them a copy), for comment. The Committee shall, in preparing its final Investigation Report, consider and attach any comments made by the Respondent (and by the Complainant and/or witnesses, if applicable on a case by case basis) on the draft Investigation Report.

The chair of the Investigatory Committee shall forward copies of the final Investigation Report to the Vice Provost for Research and the Respondent. In distributing either copies of the draft or final report, or portions thereof, the Vice Provost for Research will inform the recipient of the confidentiality under which the report is made available and may establish reasonable conditions to ensure such confidentiality. For example, as a condition to receipt of the report, the Vice Provost for Research may require that the recipient sign a confidentiality agreement with the University.

## **3. Decision by Vice Provost for Research**

The chair of the Investigation Committee will oversee the Investigation Committee in finalizing the draft Investigation Report, including a summary of the Respondent's comments provided to the report. The final Investigation Report shall be forwarded to the Vice Provost for Research, who will determine in writing: (1) whether the institution accepts the findings of the Investigation Committee in the Investigation Report; and (2) the institutional response to the accepted findings of research misconduct. If the Vice Provost for Research's determination varies from the findings and recommendations of the Investigation Committee, the Vice Provost for Research will, as part of his or her written determination, explain in detail the basis for rendering a decision different from the findings of the Investigation Committee. Alternatively, the Vice Provost for Research may return the Investigation Report to the Investigation Committee with a request for

further fact-finding or analysis.

When a final decision has been made by the Vice Provost for Research, the Respondent and the Complainant shall be notified in writing. The Vice Provost for Research will also notify the Provost and any funding or sponsoring agencies as required by applicable law.

#### **4. Appeal; Review by Vice Provost for Research.**

Within 15 days of receipt of the final decision and notification from the Vice Provost for Research the Respondent may appeal in writing, on procedural grounds only, directly to the Provost and/or President. The President's decision is final.

#### **5. Notification of the Office of Research Integrity of Institutional Findings and Actions**

After the Vice Provost for Research makes a final determination on the Investigation, the Vice Provost for Research shall forward copies of the Investigation Report to Office of Research Integrity and other responsible federal agencies where applicable, within the 120 day period required to complete the Investigation.

## **V. History**

This policy was created in 2014. In 2018 the policy was placed onto the University template for policies with no significant changes. In 2020, this policy was revised to reflect the new role of the Vice Provost for Research within the Office of Research in the Academic Affairs Division.

## **VI. Acknowledgements**

We thank the staff of the Office of Sponsored Projects at Dartmouth College for providing permission to refer to Dartmouth College policy for guidance and direction in adopting and implementing this policy.

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[i] 42 CFR § 93.313

[ii] 42 CFR § 93.313(f)