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**Research Misconduct Policy and Procedures: *Revised***  
**Summary of Changes**

The current UW-Madison policy (Faculty Legislation II-314, written/revised 1991/2007) is not aligned with federal guidelines, and a compliant policy is required to receive federal research funding. Also, the current UW policy is confusing and uses atypical procedures and terminology, which is problematic when working with federal agencies or other institutions. Finally, related sanctions of Faculty Policies and Procedures Chapter 9 are also needed to incorporate the new policy and address discrepancies.

**Revised Policy** (Fac doc 2668a, below)

Incorporates federal processes and terminologies, but retains the local governance components of the current UW-Madison policy. In particular, most of the inquiry/investigation is overseen by the School/College, not a central office. Federal requirements dictate a multi-step process to address an allegation of research misconduct. This process is coordinated by a federally-mandated Research Integrity Officer (RIO). The proposed new UW-Madison policy involves the following federally-compliant steps to respond to an allegation of research misconduct:

1. **Preliminary Assessment** (conducted by RIO in consultation with dean or designee at relevant school/college)  
Determines if alleged misconduct meets definition of research misconduct, falls within scope of policy, and that allegation contains sufficient information to proceed with an inquiry.
2. **Inquiry** (conducted by committee appointed by dean/designee of school/college)  
Makes preliminary (not final) evaluation of the available evidence and testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence of possible research misconduct to warrant an investigation.
3. **Investigation** (conducted by Inquiry Committee or others appointed by dean/designee of school/college)  
Explores in detail the allegations and evidence to determine specifically whether misconduct has been committed, by whom, and to what extent. The investigation also determines whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations.
4. **Institutional Decision** (made by deciding official, usually provost or designee)  
Makes the final determination whether to accept (or disagree with) the investigation report, its findings, and the recommended institutional actions.
5. **Appeal** (optional and overseen by chancellor, working with relevant appeal committees depending on respondent's employment or student status)

### Key differences from current UW policy

In the current UW policy, see (Fac doc 2668a, below) the process and standards differ for federal vs non-federal funded work. The proposed policy employs a more uniform process. For example:

1. The proposed policy adopts the federal definition of research misconduct: “Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.” For federally-funded work, the current policy uses the same definition, but for non-federal work, the current definition includes an additional phrase: “... misconduct in scholarly research is defined as fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scholarly community for proposing, conducting, or reporting research. The additional phrase is removed from the proposed policy.”
2. The proposed policy adopts the federally-specified evidentiary standard: “preponderance of the evidence.” The current policy uses “clear and convincing” as the standard in non-federal cases.

The proposed policy clarifies procedures for addressing allegations against non-faculty, details which had not been included in the current policy.

The proposed policy clarifies and adds protections for those who make, investigate or are the subject of allegations of research misconduct. These include options to comment on drafts of inquiry and investigation reports before they are finalized, as well as confidentiality and anti-retaliation clauses.

These changes also require modification of Faculty Policies and Procedures 9.14. (Fac doc 2668b), which outlines the disciplinary processes to be followed when misconduct is alleged.

### Drafts shared with others for comment

Before bringing the proposed policy to University Committee and Faculty Senate, we shared the policy with, and incorporated comments from, the following: the Offices of the Chancellor, Provost, and Vice Chancellor for Research and Graduate Education, the Dean of Students, the Dean of the Graduate School, the Associate Deans of Research from all Schools/Colleges, the Academic Staff Executive Committee, and the federal Office of Research Integrity (ORI). ORI informed us that the draft proposal meets current federal requirements.

### Subcommittee to amend Research Misconduct Policy

Heather Daniels, Secretary of the Academic Staff  
Ruth Litovsky, University Committee  
Paul Marker, Associate Dean, Pharmacy  
Regina Murphy, Professor of Chemical and Biological Engineering  
Jim Shull, Professor of Oncology  
Steve Smith, Secretary of the Faculty  
Dan Uhlrich, former Research Integrity Officer, Chair  
Brian Vaughan, Office of Legal Affairs

**Proposed provision to Misconduct in Scholarly Research**  
**(to replace current Faculty Legislation pages II-314 through II-322, included after new text below)**

## II-314 MISCONDUCT IN SCHOLARLY RESEARCH

### POLICY AND PROCEDURES FOR DEALING WITH RESEARCH MISCONDUCT

#### I. INTRODUCTION

##### A. General Policy

The University of Wisconsin-Madison (“University”) has long recognized that honesty is an essential component of scholarly activity. The success of our university and of the Wisconsin Idea itself relies on this honesty to maintain the highest standards of integrity in our research enterprise. The citizens of the State of Wisconsin, our funders and supporters inside and outside the state, our students and alumni, and our entire university community all deserve and expect that misconduct in research be dealt with responsibly and effectively. As a scholarly community, we are committed to addressing allegations or evidence of research misconduct fairly and objectively, in accordance with applicable federal, state, and UW System regulations.

The Unclassified Staff Code of Ethics provides that every member of the university community “at the time of appointment makes a personal commitment to professional honesty and integrity” as an essential component of the university’s “proper function in our society and to ensure continued confidence of the people of this state” (Section UWS 8.01, Wisconsin Administrative Code). The state Student Academic Disciplinary Procedures provide that the “Board of Regents, administrators, faculty, academic staff and students of the University of Wisconsin System believe that academic honesty and integrity are fundamental to the mission of higher education” and that the “university has a responsibility to promote academic honesty and integrity and to develop procedures to deal effectively with instances of academic dishonesty” (Section UWS 14.01, Wisconsin Administrative Code). Failure to adhere to these standards can be cause for discipline or dismissal.

In keeping with those regulations and with the spirit and tradition of this institution, this document outlines our campus’ procedures for assessing and investigating allegations of misconduct in scholarly research. Adherence to this policy, including the possible imposition of sanctions on individuals found to have violated the University’s expectations of integrity in research, guarantees that the University discharge its regulatory obligations and, more importantly, helps to preserve the integrity of our scholarly mission.

##### B. Procedural Summary

1. An allegation of research misconduct is addressed through a process that aligns with federal requirements (e.g., 42 CFR § 93; 45 CFR§ 689). The Respondent (person who is subject of the allegations, see Section II.B) is provided protections and the opportunity to clarify facts throughout the process. In brief, the major steps include:
  - a. An assessment to determine if the allegation meets the definition of research misconduct,

falls within the scope of this policy, and contains sufficient detail to pursue. If not, the process is terminated. The assessment should be completed quickly, preferably within one week;

b. An inquiry review by experts who understand standards in the field and are without conflict regarding the issue, to determine if the allegations merit further investigation. If not, the process is terminated. The inquiry should commence as quickly as practical and must be completed within 60 days thereafter; extensions may be requested;

c. An investigation by an expert committee that determines if specific acts of research misconduct occurred. This investigation should commence within 30 days of the inquiry decision and must be completed within 120 days thereafter; extensions may be requested;

d. A decision by Provost or designee to accept the findings of the investigation and determine appropriate institutional actions. This decision should be made within 20 days after receipt of the investigation report; and

e. The Respondent has an option to appeal a decision that research misconduct occurred. Appeal proceedings should commence within 20 days of the appeal request and then be completed within 120 days; extensions may be requested.

### C. Scope

1. This policy applies to anyone who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with the University of Wisconsin – Madison. This includes faculty, staff, employees in training, students, contractors, volunteers and guests.

2. Research misconduct is defined as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. The activity must represent a significant departure from accepted practices of the relevant research community.

a. Fabrication is making up data or results and recording or reporting them.

b. 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.

c. Plagiarism is the appropriation of another person's ideas, processes, results, or work without giving appropriate credit.

3. Research misconduct does not include honest error or honest differences in interpretations or judgments of data. The action must be committed intentionally, knowingly, or recklessly.

4. Research misconduct does not encompass authorship or collaboration disputes, nor does this policy supersede or establish an alternative to existing University, state or federal regulations or procedures for handling other transgressions, such as financial improprieties, non-compliance in safety practices or the treatment of human or animal subjects, criminal matters, or personnel actions.

5. This policy applies only to allegations of research misconduct that occurred within six years prior to the date the institution received the allegation, subject to the subsequent use, health or safety of the public, and grandfathered exceptions in federal policy (e.g., 42 CFR § 93.105(b)).

6. To the extent practicable or reasonable, proceedings of a nature different than research misconduct (e.g., academic misconduct, criminal investigation, financial audit or personnel investigation) may proceed simultaneously with research misconduct proceedings provided for in this policy. The Research Integrity Officer (RIO, see Section II.C) is responsible for coordinating with other principals for determining how the multiple processes will be coordinated on a case-by-case basis.

#### D. Responsibility to Report Misconduct

1. All institutional members and affiliates have a responsibility to report observed, suspected, or apparent research misconduct. Allegations may be made directly to the RIO or other University administrators, who will forward it to the RIO. The University will make readily available (e.g. on the University's web site) the contact information and procedures for reporting research misconduct.

2. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may contact the RIO to discuss the suspected research misconduct informally, which may include discussing it hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

3. Allegations of research misconduct may be discussed or reported anonymously (see Section II.A).

#### E. Cooperation with Research Misconduct Proceedings

All University members are obliged to cooperate with institutional officials in the review of allegations of research misconduct and to provide evidence relevant to those allegations.

#### F. Expectation of Good Faith and Protection from Retaliation

1. The University expects that all allegations will be made in good faith. Good faith means having a belief in the truth of one's allegation or testimony based on the information known to the Complainant or witness at the time. An allegation or cooperation with a research misconduct proceeding is not in good faith if it is made with knowing or reckless disregard for information that would negate the allegation or testimony. This includes acts or omissions that are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.

2. The University will not tolerate retaliation in any way against an individual who acts in good faith in a matter involving research misconduct proceedings.

3. Institutional members should report immediately any alleged or apparent retaliation to the RIO, who shall review the matter and, as necessary, work with institutional officials to make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person(s) against whom the retaliation is directed. State of Wisconsin employees will also receive state protection from retaliation if the allegations are brought forth according to Wisconsin Statute Section 230.80-.85.

4. If a person makes an allegation or gives testimony that is not done in good faith, the RIO will inform the Deciding Official (see Section II.E.), who will refer the matter for possible disciplinary action.

#### G. Confidentiality

1. In order to protect the reputation of all parties and to prevent retaliation, the identity of the participants will be kept confidential to the maximum extent possible, limited to those with a need to know to carry out a fair, thorough, competent, and objective proceeding, as allowed by law. The University must disclose the identity of individuals when required by applicable federal regulations, such as when a federal agency reviews a proceeding.

2. The University may use written confidentiality agreements or other mechanisms to ensure that the recipient of information does not make any further disclosure of identifying information.

#### H. Evidentiary Standard

Consistent with federal requirements, all recommendations and decisions rendered under this policy will be made based on a preponderance of the evidence. Any affirmative defenses raised by Respondent must be proven by Respondent based on a preponderance of the evidence.

## II. PERSONNEL

A. The Complainant is the person who makes an allegation of research misconduct.

1. The Complainant may be a member of the University community or have no affiliation with the University.

2. The Research Integrity Officer (RIO, see Section II.C) shall submit to the Designated Research Official (DRO, see Section II.D) an allegation which is brought forth anonymously.

3. The Complainant is responsible for making allegations in good faith.

B. The Respondent is the person against whom the allegation is made.

1. The Respondent is entitled to:

- a. A good faith effort by the RIO or other institutional official to notify the Respondent that an inquiry is beginning with copies of policies and procedures that will be followed;
- b. An opportunity to comment on the inquiry and (if necessary) investigation reports and have his/her comments attached to the report;
- c. Timely written notification of the progress of the proceedings;
- d. Be interviewed during the investigation, have the opportunity to correct recordings or transcripts of that interview, and have the corrected versions included in the record of the investigation;
- e. Bring forth any witness who has been reasonably identified as having information on relevant aspects of the investigation;
- f. Supervised access to the evidence on which the investigation report is based;
- g. Be advised and represented by counsel or other representative at his/her expense throughout the proceedings and thereafter; and
- h. Consultation with a university official removed from the investigation (e.g., Vice Provost for Faculty and Staff, Employee Assistance Office, or Ombuds Office) regarding the implementation of this policy and the Respondent's rights.

2. In the circumstance that the Respondent admits that research misconduct occurred and that he/she committed the research misconduct, the RIO may, with the approval of the Deciding Officer and applicable federal agencies or other sponsors that funded the impacted work, advise that the University terminate the institution's review of the allegation and proceed to institutional actions (see Section VI) and complete the case (see Section VIII).

3. As requested and as appropriate, the RIO and other relevant institutional officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.

C. The Research Integrity Officer (RIO) has the primary responsibility for implementing policies and procedures related to research misconduct.

1. Responsibilities of the RIO include:

- a. Meeting confidentially with persons who are uncertain about bringing forward an allegation;
- b. Receiving allegations of research misconduct;
- c. Assessing an allegation of research misconduct to determine whether it falls within the definition of research misconduct and warrants an inquiry;
- d. Arranging for the sequestration and secure retention of research data and other evidence pertinent to the allegation;
- e. Ensuring confidentiality to those involved in the research misconduct proceeding;

- f. Ensuring that Respondents, Complainants, and others involved in the case are notified as required of the procedures and progress of the proceedings;
- g. Ensuring that no person involved in handling an allegation has an unresolved or actual conflict of interest;
- h. Protecting from retaliation or restoring the positions and reputations of good-faith participants of these proceedings in cooperation with other institutional officials;
- i. Communicating with relevant federal agencies or other sponsors;
- j. Ensuring that administrative actions are enforced and notifying other relevant parties of those actions;
- k. Maintaining records of the research misconduct proceeding; and
- l. Acting upon requests for extension, in conjunction with the Deciding Official, as appropriate.

D. The Designated Research Official (DRO) works with the RIO to make the initial assessment of an allegation and, if necessary, arranges for and directs the inquiry and investigative phases of the proceedings.

1. The RIO identifies the acting DRO, who is typically a Dean or Vice Chancellor (or their designee) with responsibilities in the school/college or center/institute where the activity giving rise to the allegation took place. In cases where the alleged activity involves more than one unit or there is perceived or actual conflict of interest, the RIO will determine the acting DRO.

2. The DRO appoints the chair and members of the inquiry and investigation committees in consultation with the RIO, and ensures that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence.

3. The DRO reviews the inquiry findings and report, and after consulting with the RIO and/or other institutional officials, decides whether an investigation is warranted.

E. The Deciding Official receives the investigation report and determines the next institutional actions.

1. The Provost will serve as the Deciding Official and shall do so unless a conflict of interest is identified.

2. The Provost shall delegate this responsibility if there is a conflict of interest at any stage of the process. The Deciding Official should have no direct prior involvement in the assessment, inquiry, or investigation of the allegation. The Deciding Official should have no responsibility for the research under investigation, and no interests that would conflict with the university's interest in securing a fair and thorough investigation.

3. The Deciding Official has the following responsibilities:

- a. Determines whether the evidence supports the allegations based on the investigation



- report;
- b. Determines appropriate institutional sanctions, if warranted; and
- c. Determines, in consultation with the RIO (and with permission of the applicable federal agencies or other sponsors), if the matter can be settled without completing the process described in this policy.

### III. THE ASSESSMENT

#### A. Purpose

1. Upon receiving an allegation of research misconduct, the RIO, in consultation with the relevant DRO, will promptly assess the allegation to determine if an inquiry is warranted.
2. In conducting the assessment, the RIO or DRO 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. When the activity is supported by federal funds and questions arise regarding assessment criteria, the RIO should seek guidance from the applicable federal agencies.
3. An inquiry must be conducted if the following criteria are met:
  - a. Whether the conduct falls within the scope of this policy;
  - b. Whether the allegation, meets the definition of research misconduct; and
  - c. Whether the allegation is sufficiently specific so that potential evidence of research misconduct could be identified.

#### B. Timeline

The assessment period should be brief, preferably concluded within one week.

#### C. Conclusion of the assessment

1. If the allegation is credible, but does not meet the definition of research misconduct, the RIO and DRO will work with others as appropriate to resolve the issue by other methods.
2. If the assessment determines that the criteria for an inquiry are met, the DRO shall as quickly as practical convene a committee to conduct an inquiry into the allegation.

#### D. Mitigation of risk

At any point during a research misconduct proceeding, the RIO and relevant officials should take appropriate actions, including notifying relevant state or federal agencies, to mitigate health,

safety, financial or other risks resulting from or related to the alleged misconduct and to protect the integrity of ongoing research (e.g. 42 CFR § 93.318).

#### IV. THE INQUIRY

##### A. Purpose

The purpose of the inquiry is to advise the DRO, who determines whether or not to conduct a full investigation of the allegation. The inquiry reviews the available evidence to separate allegations deserving of further investigation from those which are unjustified or clearly mistaken. An inquiry does not require a full review of all the evidence related to the allegation.

##### B. Timeline

The inquiry should commence as quickly as practical. The inquiry, including preparation of the final inquiry report and the decision of the DRO on whether an investigation is warranted, must be completed within 60 days of initiation of the inquiry. Any extension of this deadline requires documentation of unusual circumstances and must be approved by the Deciding Official.

##### C. Notification and Evidence Sequestration

1. At the time of or before beginning an inquiry, the RIO must notify the Respondent in writing of the allegations and these procedures for addressing the allegations. If the inquiry subsequently identifies additional Respondents, they must be notified similarly.
2. 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.
3. Upon request, the Respondent may receive a copy of the allegations, redacted to protect the confidentiality and interests of the Complainant and others, after evidence sequestration has occurred.

##### D. Inquiry Committee

1. The inquiry committee shall consist of at least three individuals who have no responsibility for the research under inquiry, who can be impartial, and who have no interests that would conflict with securing a fair and thorough inquiry. The committee, as a whole, shall have the competence

and expertise appropriate for the inquiry. When necessary to secure the needed expertise or to avoid conflicts of interest, the DRO may select committee members from outside the institution.

2. In general, the inquiry committee should consist of faculty, but others may serve (e.g., to provide technical expertise or the perspective of the Respondent's employment group). Where the respondent is a faculty member the Inquiry Committee shall consist of a majority of University faculty members.

3. The inquiry committee will normally interview the Complainant, the Respondent, and key witnesses as well as examine relevant research records and materials. Then the inquiry committee will evaluate the evidence, including the testimony obtained during the inquiry and recommend whether or not an investigation is warranted based on the criteria in this policy, including but not limited to, the criteria in Sections I.C, III.A.3. and IV.D.4.

4. The scope of the inquiry does not require, 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 the Respondent makes an admission of research misconduct, misconduct may be determined at the inquiry stage if all relevant issues are resolved, and with the approval of applicable federal agencies or other sponsors. Thereafter, the Deciding Official may take necessary institutional actions (see Section VI) and complete the case (see Section VIII).

#### E. The Inquiry Report

1. A written inquiry report must be prepared and include the following information:

- a. The name and position of the Respondent;
- b. A description of the allegations of research misconduct;
- c. The funding source, including, for example, grant numbers, grant applications, contracts and publications listing the support; and
- d. The basis for recommending or not recommending that the allegations warrant an investigation.

2. The RIO will provide the Respondent and Complainant, under a confidentiality agreement if necessary, a draft copy of the inquiry report for comment within 10 days. Based on the comments, the inquiry committee may revise the draft report as appropriate and prepare it in final form. Any comments that are submitted to the RIO by the Respondent or Complainant will be attached to the final inquiry report, which is sent to the DRO.

#### F. Conclusion of the Inquiry

1. The DRO, in consultation with the RIO, will decide in writing whether or not to pursue an investigation, based on the available evidence and inquiry committee's report. The inquiry is completed when the DRO makes this determination.

2. The DRO will notify the RIO, Respondent, and Complainant of the completion of the inquiry and the DRO's determination. If the determination does not result in an investigation, the determination shall be reported to the Deciding Official.
3. The DRO initiates an investigation if he/she determines that one is warranted pursuant to Section V.B.1.
4. If the DRO decides that an investigation is not warranted, the determination is forwarded to the RIO. All personnel involved in the matter must be informed of this determination, and the RIO will take steps to resolve the case by other appropriate means, conclude the case, and restore or protect the Respondent's reputation (section VIII).
5. The RIO may, in consultation with the Deciding Official, request corrective action (e.g., re-training in good laboratory practices) even if an investigation is not pursued.

## V. THE INVESTIGATION

### A. Purpose

The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research misconduct has been committed, by whom, and to what extent. The investigation will also determine whether additional instances of possible research misconduct exist that would justify broadening the scope beyond the initial allegations.

### B. Timeline

1. If the DRO determines that an investigation is warranted, the investigation must begin within 30 days of that determination.
2. The investigation should be completed within 120 days of charging the investigation committee, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to applicable federal agencies or other sponsors. However, if the investigation committee determines that the investigation will not be completed within this 120-day period, they should notify the RIO who will consult with and request additional time from the Deciding Official and applicable federal agencies or other sponsors.

### C. Required Notifications

1. On or before the date on which the investigation begins, the RIO must notify the Respondent in writing of the allegations to be investigated.

2. The RIO must give the Respondent written notice of any new allegations of research misconduct not addressed during the inquiry or in the initial notice of the investigation within 30 days of discovery of the new allegations.
3. On or before the date on which the investigation begins, the RIO must notify the relevant applicable federal agencies or other sponsors and provide a copy of the inquiry report and any other required documentation.

#### D. Additional Sequestration

Prior to notifying the Respondent of further allegations and the investigation, the RIO will take all reasonable and practical steps to obtain custody of and sequester in a secure manner any research records and evidence needed to conduct the investigation that were not previously sequestered during the inquiry. The need for additional sequestration of records for the investigation 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.

#### E. Appointment of the Investigation Committee

1. The DRO, in consultation with the RIO and other institutional officials as appropriate, will appoint an investigation committee and chair as soon after the beginning of the investigation as is practical. The investigation committee must consist of at least three individuals with no unresolved personal, professional, or financial conflicts of interest with those involved with 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.
2. In general, the investigation committee should consist of faculty, but others may serve (e.g., to provide technical expertise or the perspective of the Respondent's employment group). Where the Respondent is a faculty member the Investigation Committee shall consist of a majority of University faculty members. Individuals appointed to the investigation committee may also have served on the inquiry committee. When necessary to secure the needed expertise or to avoid conflicts of interest, the DRO may select committee members from outside the institution.
3. The Respondent may state objections, and provide justification, to the DRO's selection of members of the investigation committee. A determination on the objections shall be made by the DRO in consultation with the RIO.

#### F. Charge to the Investigation Committee

1. The DRO will provide the investigation committee with a formal written charge that:
  - a. Identifies the Respondent;
  - b. Describes the allegations and related issues identified during the inquiry;
  - c. Informs the committee that it must conduct the investigation as prescribed in this policy and by any other applicable regulations;
  - d. Defines research misconduct;
  - e. 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 and who was responsible;
  - f. 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:
    - i. Research misconduct, as defined in this policy in Section I.C., occurred [Note that affirmative defenses raised by Respondent (e.g., honest error or a difference of opinion) must be proven by Respondent by a preponderance of the evidence];
    - ii. The research misconduct is a significant departure from accepted practices of the relevant research community; and
    - iii. The Respondent committed the research misconduct intentionally, knowingly, or recklessly; and
  - g. Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and other applicable regulations.

#### G. Investigation Process

1. The investigation committee must:
  - 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 each allegation;
  - b. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical, which includes assuring presentation of all that both supports or disputes misconduct;
  - c. 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 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
  - d. Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including evidence of additional instances of possible research misconduct, and continue the investigation to completion, requesting expert opinions, other information, records and data as needed.

#### H. Conclusion of the Investigation

1. The investigation committee shall prepare a written report of the investigation that:
  - a. Provides the name and position of the Respondent(s);
  - b. Describes the nature of the allegations (i.e., fabrication, falsification, or plagiarism) of research misconduct;
  - c. Describes the specific allegations of research misconduct considered in the investigation;
  - d. Describes and documents funding sources related to the work in question, including, for example, grant numbers, grant applications, pending applications, contracts, and publications listing that support;
  - e. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed;
  - f. Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must:
    - i. identify whether the research misconduct involved falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly;
    - ii. 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;
    - iii. identify the specific funding support;
    - iv. identify whether any publications need correction or retraction; and
    - v. identify the person(s) responsible for the misconduct.
2. The Respondent will be provided for comment a copy of the draft investigation report and, concurrently, a copy of, or supervised access to, the evidence on which the report is based. The DRO, in consultation with the RIO, also has the discretion to provide to the Complainant portions or the entire draft of the report for comment. The Respondent and Complainant (if applicable) will be allowed 10 calendar days from receipt to comment on the report. The comments must be included and considered in the final report.
3. The DRO and RIO may assist the investigation committee in finalizing the investigation report, including ensuring that the comments of the Respondent and Complainant (if applicable) are included and considered.
4. The DRO will transmit the final investigation report to the Deciding Official and copy the RIO.

## VI. INSTITUTIONAL DECISION AND ACTIONS

### A. Decision

1. Upon receiving the investigation report, the Deciding Official will determine in writing:

- a. Whether the institution accepts the investigation report and its findings; and
  - b. The appropriate institutional actions in response to the accepted findings.
2. An institutional decision finding research misconduct requires that the allegation is proven by a preponderance of the evidence.
3. The Deciding Official will convey the decision in writing to the Respondent, Complainant, RIO and other key personnel involved in the case.

#### B. Timeline

The decision of the Deciding Official should be made within 20 days of receipt of the investigation report.

#### C. Decision Options

1. If the Deciding Official's determination varies from the findings of the investigation committee, the Deciding Official will explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the Deciding Official may return the report to the investigation committee with a request for further fact-finding or analysis.
2. If the Deciding Official determines that research misconduct occurred, the Respondent has the right to appeal the decision.
  - a. If the Respondent appeals a decision, the Deciding Official initiates the appeal process (see Section VII).
  - b. If the Respondent does not appeal the decision, he/she is deemed to have waived the right to such review, and the decision of the Deciding Official is final.

3. If the Deciding Official determines that research misconduct did not occur, the Deciding Official will direct the RIO to complete the case and take steps to restore the reputation of the Respondent (see Section VIII).

#### D. Institutional Actions

1. If research misconduct is determined, the Deciding Official will consult with the DRO and others to decide the appropriate actions to be taken. These may include, but are not limited to:
  - a. Removal of the responsible person from the particular project, letter of reprimand, special monitoring of or restrictions placed upon future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
  - b. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;



- c. Restitution of funds to the grantor agency as appropriate;
- d. Disciplinary action against a student, such as loss of course credit or degree requirement, probation, suspension, or expulsion; and
- e. Other actions appropriate to the research misconduct.

2. If the institutional action involves a dismissal decision which the Respondent does not appeal, the Chancellor may proceed under UWS 4.07 (faculty), UWS 11.07 or 11.11 (academic staff), or such other policy or regulation governing review of the decision as applicable (other employees or students).

## VII. APPEAL (optional)

### A. Initiating an Appeal

1. The request for appeal shall be addressed in writing to the Deciding Official who shall forward it to the chair of the relevant appeal committee, as designated in Section VII.C, for appropriate proceedings and notify the DRO. The request for appeal must set forth the substantive or procedural reasons the Respondent believes the decision is erroneous.

2. In an appeal from the institutional decision under this Section, the University bears the burden of proof for all issues related to the allegations of misconduct. The Respondent bears the burden of proof for any claims asserted in opposition to the institutional decision.

3. When applicable, the RIO will notify applicable federal agencies or other sponsors of the decision to initiate an appeal and request an extension, if necessary, because the appeal will extend the university's process beyond timelines dictated in agency policies.

4. During an appeal no discipline or other sanction will be imposed as a consequence of the finding of research misconduct made by a committee under Sections IV or V above, except for actions to mitigate potential risks associated with the alleged misconduct (e.g., Section III.D).

### B. Timeline

1. The Respondent may submit a request for appeal within 10 days after service of the notice of the institutional decision. If an appeal is not requested by the deadline, the Respondent is deemed to have waived the right to such review. In that case, the decision of the Deciding Official is final and the Chancellor may proceed under UWS 4.07 (faculty), UWS 11.07 or 11.11 (academic staff), or such other policy or regulation governing review of the decision as may be applicable (other employees or students).

2. The appeal procedure should ordinarily be completed by the committee within 45 days of its initiation. This includes preparing the draft report of the recommendations, making that report available for comment by the Respondent, and submitting the final report to the Chancellor. If it

appears that the committee will be unable to complete the report within 45 days, the RIO may grant an extension after securing permission from the appropriate applicable federal agencies or other sponsors, if applicable.

#### C. Committees Designated to Hear Appeals

1. If the Respondent is a faculty member, the Committee on Faculty Rights and Responsibilities (CFRR) shall hear the appeal. The chair of the CFRR, in consultation with the RIO, may substitute up to two regular members of the CFRR with not more than two special members of the CFRR who have the scholarly competence and expertise appropriate for the hearing of this matter.

2. If the Respondent is an academic staff member, the Academic Staff Appeals Committee (ASAC) shall hear the appeal. The chair of the ASAC, in consultation with the RIO, may substitute up to two regular members of the ASAC with not more than two special members of the ASAC who have scholarly competence and expertise appropriate for the hearing of the matter.

3. If the Respondent is an employee of the university who is neither a member of the faculty nor the academic staff, the Vice Chancellor for Research and Graduate Education shall appoint an ad hoc appeal committee comprised of three individuals who have scholarly competence and expertise appropriate for the hearing of the matter. The Vice Chancellor for Research and Graduate Education shall consult with leaders of shared governance and research administration, as appropriate, prior to selection of members for the ad hoc appeal.

4. If the Respondent is an undergraduate or graduate student, the appeal shall follow the process set forth in Chapter UWS 14 of the Wisconsin Administrative Code.

5. No members of the appeal committee, including any special members, shall have served on either the inquiry committee or the investigation committee, nor should they have responsibility for the research under investigation or any other interests which would conflict with the university's interest in securing a fair and thorough hearing on appeal.

#### D. Conduct of the Appeal

1. Issues on Appeal. The CFRR, ASAC, or the ad hoc committee appointed by the Vice Chancellor for Research may conduct a hearing on appeal from the decision of the Deciding Official on the following grounds:

- a. That the decision is clearly erroneous;
- b. That the decision erred in application of the law and this error influenced the outcome of the decision;
- c. That the recommended sanction is inappropriate.

## 2. Opportunity to Appear

- a. If the Respondent makes a timely request for review by the CFRR, ASAC or an ad hoc committee, the body hearing the appeal will provide an opportunity for the Respondent and both the DRO and Deciding Official, to submit a written statement and to appear personally before committee.
- b. The committee, based on the record and any statement and arguments submitted by the Respondent, DRO or Deciding Official, will render a report with its findings and conclusions and provide it to the Chancellor for review.

3. Procedures after appeal shall follow the appropriate administrative regulations based upon the Respondent's relevant employment or student status (e.g., UWS 4.07 and 4.08 or UWS 6.01 for faculty; UWS 11.07-11.10 or 11.11 for academic staff; UWS 14 for students).

## E. Hearing Process

1. Any committee hearing an appeal under section VII will be provided, upon request, legal counsel pursuant to Sections UWS 4.06(f) and 11.06 (2)(b).
2. A hearing on an appeal initiated under this section shall commence no later than 20 days after the appeal request. This time limit may be extended by mutual written consent of the parties or by order of the hearing committee. The appeal/hearing shall be a fair hearing and shall include the procedures and rights provided for relevant employee or student categories, e.g., for faculty members in Sections UWS 4.05, 4.06, for academic staff members in Sections UWS 11.05 and 11.06, and for students in Sections UWS 14.08 and 14.09.
3. All evidence, materials, and reports collected during earlier phases of the assessment, inquiry and investigation shall be made available to the committee hearing the appeal. The committee may request additional materials as it deems appropriate. All new information must be shared with the Respondent.
4. If the RIO or the committee hearing the appeal learns of previously unavailable material evidence relevant to the finding of misconduct during the appeal, it shall be the responsibility of the RIO to inform the Deciding Official and the Respondent of the new evidence. If the Deciding Official concurs that the new evidence could materially affect the finding of misconduct, the Deciding Official shall remand the finding of misconduct to the Investigation Committee that made the finding for consideration of the new evidence. The Investigation Committee shall notify the Deciding Official within 14 days that it finds the new evidence immaterial to its prior finding or that it wishes to reopen the matter. The Deciding Official may extend this period for good cause by notice to the Respondent, RIO, and other involved parties.

## F. Findings and Decision

1. The committee hearing the appeal will prepare a draft report and provide it to the Respondent,

who will have 10 days from receipt of the draft report to submit a response to the committee. At the end of that ten-day period, the committee will prepare a final report for the Chancellor. The final report of the hearing committee should include the policies and procedures under which the hearing was conducted, the findings of the committee, and the basis for the findings, and any recommended sanction(s).

2. In the event of prior involvement in the case, relationship with the Respondent or Complainant, or other conflict of interest, the Chancellor shall appoint a designee to decide the appeal.

3. If the appeal challenges the finding of research misconduct, the Chancellor or designee shall issue a decision and rationale affirming or reversing the finding.

4. If the appeal concerns the institutional actions or sanction, the Chancellor or designee shall issue a decision and rationale to affirm, reject or modify the action.

5. The appeal decision shall be made within 30 days after the submission of the recommendation by the committee hearing the appeal. The Chancellor may extend this period for good cause by notice to the Respondent, RIO and other parties.

## VIII. COMPLETION OF CASES

### A. Requirement to Pursue Allegations to Completion

1. All inquiries and investigations will be carried through to completion, and all significant issues will be pursued diligently.

2. If the Respondent wishes to close the case at any time during the proceedings identified in this policy through an admission of guilt or settlement with the University, the RIO must first notify applicable federal agencies and other sponsors and obtain approval in advance.

3. If the Respondent's institutional employment is terminated, by resignation or otherwise, the RIO will ensure that the process for addressing the allegations is pursued to completion.

4. If the Respondent refuses to participate in the process after resignation, the RIO, DRO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, and report the Respondent's failure to cooperate and its effect on the evidence.

### B. Notice to Applicable Federal Agencies and/or Other Parties

1. When applicable, the RIO must provide the applicable federal agencies or other sponsors with information about the finalization of the case, including:

- a. A copy of the final investigation and appeal reports with all attachments;
- b. A statement of whether the institution accepts the findings of the investigation report and the outcome of the appeal;
- c. A statement of whether the institution found misconduct and, if so, who committed the misconduct; and
- d. A description of any pending or completed administrative actions against the Respondent.

2. Following a finding of research misconduct, the RIO shall ensure that other affected parties are notified, such as research collaborators, professional licensing boards, and professional societies.

### C. Restoration of the Respondent's Reputation

Following a final finding of no research misconduct, including concurrence when required by the applicable federal agencies or other sponsors, 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 in any forum in which the allegation of research misconduct was previously publicized, and expunging all reference to the research misconduct allegation from the Respondent's personnel file. Any institutional actions to restore the Respondent's reputation should first be approved by the Deciding Official.

### D. Maintaining Records for Review

After completion of the case, whether or not the decision was made to conduct an inquiry or investigation, and completion of all ensuing related actions (e.g., federal investigation or litigation), the RIO will ensure that all records of the proceedings will be maintained securely seven years in compliance with applicable state and federal requirements.

**II-314**  
**MISCONDUCT IN SCHOLARLY RESEARCH**

**Current**

PROCEDURES FOR DEALING WITH MISCONDUCT IN SCHOLARLY RESEARCH  
January 15, 1991

**I. INTRODUCTION**

The University of Wisconsin-Madison has long recognized that honesty is an essential component of scholarly activity. Faculty and staff are reminded that Chapter UWS 8 of the Wisconsin Administrative Code, the Unclassified Staff Code of Ethics, provides that:

“Every member of the faculty and academic staff at the time of appointment makes a personal commitment to professional honesty and integrity that meets the demanding standards of the state and national academic communities.”

In addition, Section 8.02 A of the university *Faculty Policies and Procedures* states:

“Furthermore, every faculty member has an obligation to maintain professional honesty and integrity, to seek knowledge...”

Failure to adhere to these standards can be cause for discipline or dismissal.

Students are reminded that Chapter UWS 14, Student Academic Disciplinary Procedures provide under Statement of Principles:

“The board of regents, administrators, faculty, academic staff and students of the university of Wisconsin system believe that academic honesty and integrity are fundamental to the mission of higher education and of the university of Wisconsin system. The university has a responsibility to promote academic honesty and integrity and to develop procedures to deal effectively with instances of academic dishonesty. Students are responsible for the honest completion and representation of their work, for the appropriate citation of sources, and for respect of others’ academic endeavors. Students who violate these standards must be confronted and must accept the consequences of their actions.”

**A. General Provisions**

1. For purposes of these procedures, misconduct in scholarly research is defined as “fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scholarly community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.”
2. Misuse by a researcher of university funds (including grant and contract funding from extramural sponsors) is also cause for discipline or dismissal and may be cause for criminal prosecution. However, an allegation of misuse of funds is not within the scope of this policy; such allegation shall be referred promptly to the appropriate dean who will consult with the assistant vice chancellor for business services concerning an appropriate course of action.
3. A violation of institutional procedures or federal regulations on the protection of human or animal research subjects or a violation of state or federal safety laws or regulations is also not within the scope of this policy. An allegation regarding any such violation shall be promptly referred to the chair of the appropriate human subjects committee, to the chair of the appropriate animal research committee, or to the chair of the appropriate safety committee at the university.
4. The goal of the procedures outlined below is to assure the integrity of scholarly research, to achieve a rapid and equitable resolution of all charges and to assure that all parties are treated with fairness. In order to protect the reputation of an innocent party, the procedures will preserve the maximum level of confidentiality consistent with law and with justice for all parties to these procedures. All parties will take whatever action is required to avoid any unnecessary conflict of interest.

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5. At any stage of the inquiry, review, or hearing, the vice chancellor for academic affairs and provost (vice chancellor and provost) shall be promptly notified if any of the following conditions exist: (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 any person making the allegation or of any individual who is the subject of an allegation as well as his or her co-investigators and associates, (4) it is probable that the alleged incident is going to be reported publicly, or (5) there is a reasonable indication of possible criminal violation.
6. Where an inquiry, review, or hearing results in a finding that no misconduct has occurred, the university will not institute a new inquiry, review, or hearing into an allegation of misconduct where the allegation is made against the same person and is based on material facts, which were reviewed and found not to constitute misconduct during the prior inquiry, review, or hearing, unless new material evidence is presented by a different complainant, or unless the person who is the subject of the inquiry, review, or hearing requests another proceeding.
7. Because of the difficulties of assessing stale claims and the unfairness to the person against whom the allegation is made, allegations based on conduct which occurred seven years or more prior to the making of the allegation will not be inquired into under this policy unless the circumstances indicate that the alleged conduct was not discoverable earlier.

B. Procedures for Reviewing Reports of Possible Misconduct in Scholarly Research Against Faculty and Academic Staff (See *Faculty Policies and Procedures* 9.14. and *Academic Staff Policies and Procedures*.)

[FPP and ASA will need to be revised to add reference to the standing Hearing Committee on Misconduct in Scholarly Research and to incorporate the procedures below for addressing such alleged misconduct.]

## II. INQUIRY

### A. Initial Steps

1. An informal report of possible misconduct shall be brought to the attention of the person with immediate responsibility for the work of the individual involved. The person receiving the informal report is responsible for either resolving the matter or encouraging the submission of a formal allegation. An anonymous report shall not be treated as a formal allegation, but may be the basis for an allegation filed by the recipient of the report. The university will make every effort to protect the privacy of those making an accusation. However, if an inquiry is required, fairness may necessitate revealing the identity of the individual making the accusation to the individual against whom the allegation is made and to the inquiry committee. Such a release will occur during a chancellor's review and hearing.

### B. Allegations

1. A formal allegation of misconduct in scholarly research should be made to the chair of the department (or functional equivalent) or to the corresponding academic dean or, in case of conflict of interest on the part of the chair or academic dean, to the dean of the Graduate School. If the formal allegation is made to the chair of the department, the chair will forward it to the academic dean of the school or college or, in case of conflict of interest on the part of the academic dean, to the dean of the Graduate School. The dean is responsible for determining whether the complaint is non-frivolous and falls within the scope of these procedures, or whether it should be resolved by other methods. Any determination that a complaint is not a serious allegation of misconduct in scholarly research, along with supporting documentation for reaching such a decision, shall be transmitted promptly to the vice chancellor and provost.
2. Unless the allegation is determined to be outside the scope of these procedures or is not a serious allegation of misconduct in scholarly research, the dean, if directed to do so by the chancellor, shall promptly convene an ad hoc committee to conduct an inquiry into the allegation.

This committee shall consist of at least three individuals who have no responsibility for the research under inquiry, who can be impartial, and who have no interests which would conflict with the

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university's interest in securing a fair and thorough inquiry. The committee, as a whole, shall have the competence and expertise appropriate for the inquiry. The inquiry committee may, but need not, include individuals from outside the university. Simultaneously with the appointment of the inquiry committee, the responsible dean shall notify the individual against whom the allegation has been made of the allegation. The inquiry is an informal administrative process to gather and review factual information. It is designed to separate allegations deserving of further investigation from those which are unjustified or clearly mistaken. Even if the individual against whom the allegation has been made terminates or has terminated his or her status with the university (student or employee), the inquiry will be held.

3. When possible, the inquiry committee shall interview the individual against whom the allegation has been made and other individuals with relevant information. Summaries or tapes of the interviews shall be prepared and submitted to the interviewed person for comment or revision. The committee shall collect, review, and protect all documentation and other materials relevant to the allegation including but not limited to research data, proposals, publications, correspondence and memoranda. All faculty, staff, and students are obliged to cooperate with the committee by supplying requested documents and information.
4. The individual against whom the allegation has been made shall be provided with a copy of the report of the committee by the committee chair prior to the committee's submission of the report to the appointing dean. The individual shall be given an opportunity to respond in writing within ten (10) days of his/her receipt of the report. The committee shall consider any such response and make any appropriate changes in its report before submitting it to the appointing dean.
5. The report of the inquiry committee, along with any response by the individual against whom the allegation of misconduct has been made, shall be completed and transmitted to the appointing dean as soon as possible, but in no case later than 60 days after formal notification to the individual. Any extension of this deadline requires documentation of unusual circumstances, and must be approved by the vice chancellor and provost. The written report should contain a precise specification of any charges on which further formal investigation is recommended. The report shall state the evidence reviewed, summarize relevant interviews and include the conclusions of the inquiry. The committee is responsible for maintaining and protecting the documentation relating to the decision and providing it to the vice chancellor and provost, who shall preserve it for a period of at least three years.
6. Any determination by the inquiry committee of nonsubstance of the allegation shall be reported to the vice chancellor and provost through the appointing dean. The dean shall advise the individual making the allegation and the individual against whom the allegation was made about the decision of nonsubstance.
7. An inquiry report recommending further investigation shall be provided to the dean, vice chancellor and provost, and chancellor immediately upon its completion. The dean shall notify the individual against whom the allegation has been made, and the complainant.
8. Within 20 days after receipt of an inquiry report recommending further action, the chancellor, after consultation with the appointing dean, shall review the matter, shall offer to discuss the matter with the person against whom the allegation has been made, and shall determine whether to dismiss the case or to bring charges that would warrant discipline or dismissal. If the chancellor decides to bring charges, he/she shall serve a statement of charges on the person charged in the manner provided for in UWS 4.02 or 11.02. The statement shall include notice of the hearing/appeal procedures, and shall specify the sanction deemed appropriate. Service shall be made within 30 days after completion of the inquiry. If the person charged does not request a hearing, the matter shall proceed according to UWS 4.02(1) or 11.02(1). Charges are allegations, not a determination of whether the matters alleged are true.
9. The person charged may request a hearing within 20 days after notice of the statement of charges (25 days if notice is by first-class mail and publication). The request for hearing shall be addressed in writing to the chancellor who shall forward it to the chair of the Hearing Committee on Misconduct in Scholarly Research. The chancellor shall at the same time refer the matter to that committee for appropriate proceedings.

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10. The vice chancellor and provost is responsible for notification of any funding agencies involved.

### III. HEARING AND REVIEW

#### A. Hearing

1. If charges are referred to the Hearing Committee on Misconduct in Scholarly Research, the vice chancellor and provost shall appoint at least three individuals to that committee who were not on the inquiry committee, who have no responsibility for the research under investigation, who can be impartial, who have no interests which would conflict with the university's interest in securing a fair and thorough investigation, and who have the competence and expertise appropriate for the hearing of this matter. One member of the committee shall be a person with legal training and experience, and that person shall be the chair of the committee. Where the person against whom charges have been made is a faculty member, a majority of the hearing committee must be UW-Madison faculty members. The vice chancellor and provost may also consider appointment of parties to the committee from outside the university. The vice chancellor and provost will consult with the University Committee or the Academic Staff Executive Committee, as appropriate, prior to selection of members for the hearing committee.
2. If the research is funded by an agency within PHS, the vice chancellor and provost shall report the institution's decision to initiate a hearing in writing to the director, Office of Scientific Integrity (OSI) on or before the date the hearing begins. The notification shall state the name of any individual against whom charges have been made, the general nature of the charges, and the PHS application or grant number involved.
3. A hearing on the charges shall be commenced not later than 20 days after the request therefor, except this time limit may be enlarged by mutual written consent of the parties or by order of the hearing committee. The hearing shall be a fair hearing and shall include the procedures and rights provided for faculty members in UWS 4.05, 4.06, and for academic staff members in UWS 11.05 and 11.06.
4. Any individual charged shall make available for examination by the committee all of the following if requested by the committee—laboratory notebooks, records of research activities such as summary reports and drafts of unpublished manuscripts, and other materials associated with the research, including data generated by others. All faculty, staff and students are obliged to cooperate with the committee by supplying requested documents and information.
5. The hearing committee is charged with determining whether the specific charges are true. The hearing committee will be provided, upon request, legal counsel pursuant to UWS 4.06(f) and 11.06 (2)(b). The hearing committee shall be responsible for assuring that both the evidence tending to show that misconduct occurred and the evidence tending to dispute that misconduct occurred is presented. The hearing committee shall have the responsibility to question all witnesses. Expert opinions, other information, records and data may be requested by the hearing committee. The committee will maintain a file of all information received during the hearing. Following the hearing procedure, the file will be transmitted to the vice chancellor and provost.
6. In order to make a finding of misconduct in scholarly research, the committee must be satisfied that there is clear and convincing evidence of such misconduct.
7. The hearing procedure should ordinarily be completed by the hearing committee within 110 days of its initiation. This includes conducting the hearing, preparing the draft report of the findings, making that report available for comment by the individual against whom the charges were made, and submitting the final report to the vice chancellor and provost.
8. The committee will prepare a draft report and provide it to the individual against whom the charges were made. Such individual will have ten (10) days from receipt of the draft report to submit a response to the committee. At the end of that ten (10) day period, the committee will prepare a final report for the vice chancellor and provost. The final report of the hearing committee to the vice chancellor and provost should include the policies and procedures under which the hearing was conducted, the findings of the committee, and the basis for the findings, and any recommended sanction(s).

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9. Except as provided below, the committee report must be submitted to the vice chancellor and provost within 110 days of the service of notice of charges on the individual charged, so that the vice chancellor and provost can report to OSI, where appropriate, within the required 120 days.
10. If the research is funded by an agency within PHS, the vice chancellor and provost shall submit a report to OSI which describes the policies and procedures under which the hearing was conducted, how and from whom information was obtained, the findings and the basis for the findings, an accurate summary of the views of any individual found to have engaged in misconduct and a description of any sanctions being sought by the university. The vice chancellor and provost shall make the documentation substantiating the hearing committee's findings available to the director of OSI.
11. If it appears that it will be impossible to complete the hearing committee report within 110 days, no later than 90 days after service of the notice of charges, the committee will provide the vice chancellor and provost with a written request explaining the need for extra time and an estimate of the expected date of completion. If the research is funded by an agency within PHS, that request will be forwarded to OSI by the vice chancellor and provost. If the request for additional time is granted by the OSI, the committee will prepare periodic progress reports as requested by the OSI.

**B. Further Review for a Faculty Member**

1. Within 10 days of receipt of the hearing committee's final decision, a faculty member may ask for review of the decision by the Committee on Faculty Rights and Responsibilities (CFRR) on the hearing committee record on either or both of these grounds: 1) that the decision of the hearing committee is clearly erroneous; 2) that the recommended sanction is inappropriate. If such review is not requested within 10 days, the faculty member is deemed to have waived the right to such review and the hearing committee decision will be deemed submitted to the chancellor for review under UWS 4.07.
2. If the faculty member makes a timely request for review by CFRR, CFRR will provide an opportunity for the faculty member and hearing committee to submit a written statement and to appear personally before CFRR. CFRR, based on the hearing committee record and any statement and arguments submitted by the faculty member or hearing committee, will make a decision and provide it to the chancellor for review.

Procedures thereafter shall be according to UWS 4.07 and 4.08 or UWS 6.01.

**C. Further Review for an Academic Staff Member**

1. Within 10 days of the receipt of the hearing committee's final decision, an academic staff member may ask for review of the decision by [the appropriate review committee to be determined in consultation with the Academic Staff Assembly, hereinafter called "Review Committee."] on the hearing committee record on either or both of these grounds: 1) that the decision of the hearing committee is clearly erroneous; 2) that the recommended sanction is inappropriate. If such review is not requested in 10 days, the academic staff member is deemed to have waived the right to such review and the hearing decision will be deemed submitted to the chancellor for review under UWS 11.07 or 11.11.
2. If the academic staff member does request review by the Review Committee within 10 days, that committee will provide an opportunity for the academic staff member and the hearing committee to submit a written statement and to appear personally before the Review Committee. The Review Committee, based on the hearing committee record and any statement and arguments submitted by the academic staff member or the hearing committee, will make a decision and provide it to the chancellor for review.
3. Procedures thereafter shall be according to UWS 11.07-11.10 or 11.11.

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D. Procedures for Reviewing Reports of Possible Misconduct in Scholarly Research Against Students

Reports of possible misconduct against students shall be handled according to the requirements of UWS 14. Any time limits applicable under 42 CFR Part 50 will be observed in student misconduct in scholarly research investigations.

E. Institutional Responsibility to Notify OSI, Where Research is Supported by PHS Grants

During the course of the hearing, the hearing committee shall apprise the chancellor and the vice chancellor and provost shall apprise OSI of any significant findings which might affect current or potential Department of Health and Human Services funding of any individual charged or which might require agency interpretation of funding regulations.

At any stage of the inquiry or hearing, the committee shall promptly notify the vice chancellor and provost and the vice chancellor and provost shall notify OSI if any of the following conditions exists: (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 any person making the allegation or of any individual who is the subject of an allegation as well as his or her co-investigators and associates, (4) it is probable that the alleged incident is going to be reported publicly, or (5) there is a reasonable indication of possible criminal violation. If a criminal violation is possibly involved, the institution must inform OSI within 24 hours.

If an inquiry, chancellor's review, or hearing is to be terminated for any reason without completing all the relevant requirements, the vice chancellor and provost shall make a report of such planned termination, including a description of the reasons for such termination, to OSI, which will then decide whether further investigation review should be undertaken.

If further review by CFRR or the Review Committee, the chancellor, or the Board of Regents alters the decision, the vice chancellor and provost shall notify OSI of the changes with an explanation of such changes.

#### IV. SUBSEQUENT ACTION

A. Subsequent Action Following Completed Hearing and Appeal or Student Academic Misconduct Procedures

1. If the alleged misconduct in scholarly research is substantiated, the vice chancellor and provost shall notify any agency sponsoring the research of the results of the hearing and appeal or student academic misconduct procedures under UWS 14. If it appears that the research is based on scholarly misconduct and is invalid, the researchers shall be requested to withdraw all pending abstracts and papers emanating from the research, and editors of journals in which relevant papers appeared shall be notified. Moreover, institutions and sponsoring agencies with which the individual has been affiliated shall be notified if it is believed that the previous research is based on scholarly misconduct and is invalid.
2. Appropriate disciplinary action, where misconduct in scholarly research is substantiated by the above-stated procedures, shall be taken with regard to a faculty member, an academic staff member or a graduate assistant or other student.
3. If an allegation of misconduct in scholarly research is not substantiated by the hearing and appeal, or by the student academic misconduct procedures under UWS 14, the university shall make diligent efforts, as appropriate, to protect or restore the reputation of any person alleged to have engaged in the misconduct. The university shall also take steps to assure that any person who made an allegation in good faith will not experience retaliation. Additional protection against retaliation is afforded under Wis. Stats., sec. 230.80, et seq.

[UW-Madison Faculty Document 867a - 4 February 1991]

## APPENDICES: BRIDGING DOCUMENTS REGARDING FEDERAL PROCEDURES FOR DEALING WITH MISCONDUCT IN SCHOLARLY RESEARCH

### Appendix A. Implementation of Federal Policies Regarding Misconduct in Research

#### Introduction

In 2000, the Office of Science and Technology Policy (OSTP) promulgated a policy regarding misconduct in research in the conduct of federally sponsored research or proposal submitted to Federal agencies for research funding. The policy requires all federal funding departments and agencies to adopt regulations which become a term and condition of receipt of federal research funding. The OSTP policy encourages a certain amount of uniformity among funding agencies.

In 1991, the Faculty Senate adopted Faculty Document 867a, Procedures for Dealing with Misconduct in Scholarly Research.

This bridging document provides processes for implementing the federal policies consistent with Faculty Document 867a.

#### Research Misconduct

Misconduct in federally funded research is fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

*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 appropriate credit.*

Research misconduct does not include honest error or differences of opinion nor does it supersede or establish an alternative to existing regulations or procedures for handling fiscal improprieties, the ethical treatment of human or animal subjects, criminal matters, personnel actions against federal employees, or actions taken under the HHS debarment and suspension regulations.

Research misconduct under Faculty Document 867a may also include other practices that seriously deviate from those that are commonly accepted within the scholarly community for proposing, conducting, or reporting research.

#### Confidentiality

Consistent with a thorough, competent, objective and fair misconduct proceeding and to the extent allowed by law, disclosure of the identity of respondents and complainants is limited to the extent possible to those who need to know.

#### Preservation of Evidence

As soon as feasible at the allegation or inquiry stages, the institution shall take all reasonable and practical steps to obtain custody of all research records and to the extent possible, sequester them in a secure manner.

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### **Additional Information**

For allegations of misconduct in federally funded research, the Graduate School shall provide information to the Inquiry Committee convened under II.B.2. or the Hearing Committee convened under III.A.1. of Faculty Document 867a regarding the procedures to be applied as required by the federal policy or the regulations of the specific federal funding department or agency including:

1. A finding of research misconduct requires that:
  - there is a significant departure from accepted practices of the relevant research community;
  - the misconduct is committed intentionally, or knowingly, or recklessly;
  - the allegation is proven by a preponderance of evidence.
2. The time requirements for completion of the inquiry and the investigation if such requirements significantly differ from those set forth in II.B. and III. of Faculty Document 867a.
3. Any conditions, in addition to those identified in I.A.5. or III.E. of Faculty Document 867a, that require notification of the provost and the federal funding agency.
4. The length of time the documentation relating to any decision must be preserved.
5. Any requirement to notify the federal agency if the inquiry or investigation is being closed prior to completion of the process.
6. Any additional requirements contained in the federal funding agency's regulations.

### **Appendix B. Policy Regarding Institutional Responsibility for Responding to and Reporting Allegations of Research Misconduct in Federally Funded Research**

The University of Wisconsin-Madison will:

1. Maintain appropriate written policies and procedures for addressing allegations of research misconduct and have an active assurance of compliance.
2. Respond to any allegation of research misconduct in a thorough, competent, objective and fair manner.
3. Ensure that individuals responsible for carrying out any part of the research misconduct proceeding do not have unresolved personal, professional or financial conflicts of interest with the complainant, respondent or witnesses.
4. Foster a research environment that promotes the responsible conduct of research, discourages research misconduct, and deals promptly with allegations or evidence of possible research misconduct.
5. Take reasonable and practical steps to protect the positions and reputations of good faith complainants, witnesses and committee members and protect them from retaliation.
6. Provide confidentiality to extent possible to respondents, complainants, and research subjects.
7. Take all reasonable and practical steps to ensure the cooperation of respondents and other institutional members with research misconduct proceedings.

(continued)

8. Cooperate with the federal funding agency during any research misconduct proceeding or compliance review and, as appropriate, assist in administering and enforcing any administrative actions imposed.

The written policies and procedures (under 1. above) will:

1. To the extent possible protect the confidentiality of respondents, complainants and research subjects.
2. Provide a thorough, competent, objective, and fair response to allegations of research misconduct consistent with and within the time limits of federal funding agencies requirements, including precautions to ensure that individuals responsible for carrying out any part of the research misconduct proceeding do not have unresolved personal, professional, or financial conflicts of interest with the complainant, respondent, or witnesses.
3. Provide the respondent with:
  - a. Notice of the allegations.
  - b. Opportunity to provide written comments on the inquiry report and the draft report of any investigation.
4. Maintain adequate records for the proceeding.
  - a. Either before or when the respondent is notified of the allegation or when additional research records or evidence that is discovered during the course of a research misconduct proceeding, promptly take all reasonable and practical steps to obtain custody of all the research records and evidence relevant to the research misconduct proceeding.
  - b. Inventory the records and evidence, and sequester them in a secure manner, except that where the research records or evidence encompass shared scientific instruments 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.
  - c. Where appropriate, give the respondent copies of or supervised access to the research records.
  - d. Maintain the research records, the inquiry report, any documentation of a decision not to investigate, the investigation and the complete record of any appeal at the university for the amount of time required by the federal funding agency.

#### **Appendix C. Institutional Compliance and Assurance with Public Health Service Policies on Research Misconduct**

The University of Wisconsin-Madison has written policies and procedure in compliance with 42 CFR Part 93 for inquiring into and investigating allegations of research misconduct and complies with it own polices and procedures and the requirements of this part.

The university will take all reasonable and practical specific steps to foster research integrity including informing researchers about its policies and procedures for responding to allegations of research misconduct and its commitment to compliance with those policies and procedures.

[UW-Madison Faculty Document 2006 and 2006a - 3 March 2008]

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**Proposal Change *Faculty Policies and Procedures* 9.14. to Incorporate Changes to the  
Research Misconduct Policy**

*With mark-up*

**9.14. PROCEDURES WHEN MISCONDUCT IN SCHOLARLY RESEARCH IS ALLEGED.**

Whenever the provost acting as the Deciding Official pursuant to ~~Faculty Document 867a (2/4/91),~~ Section VI, Faculty Document 2668a ~~has decided to bring charges that would warrant~~ issued an institutional decision imposing discipline or dismissal of a faculty member on the basis of misconduct in scholarly research, sections 9.01. through 9.05.B., 9.10., and 9.13. of this chapter, as well as other sections specifically noted below, shall govern faculty dismissal and disciplinary actions as follows:

A. The report of the Investigation Committee provided for in ~~Faculty Document 867a (2/4/91), Part II.B.5-7,~~ Faculty Document 2668a shall constitute the investigation required by 9.06.A. and the complaint referred to in 9.01. and 9.04. When serving as Deciding Official pursuant to Section VI of Faculty Document 2668a, after reviewing the report of ~~Inquiry~~ the Investigation Committee and the response, if any, of the faculty member, if the provost believes that dismissal may be warranted, the provost shall proceed in accordance with UWS 4, or, if the provost believes that lesser discipline may be warranted, the provost shall proceed in accordance with 9.06.C.3. or 9.06.C.4., and UWS 6.01. If the provost decides to dismiss the case, he/she shall proceed in accordance with 9.06.C.1. A hearings subsequent to appeal provost's actions shall be conducted by the ~~Hearing Committee Misconduct in Scholarly Research CFRR~~ under Faculty Document 867a, Part IIIA Faculty document 2668a and may be appealed to CFRR, as provided below and in ~~Faculty Document 867a, Part IIIB Faculty Document 2668a Section VII.~~

B. ~~The Hearing Committee on Misconduct in Scholarly Research provided for in Part III.A.1 of Faculty Document 867a shall consist of three to five members, a majority of whom shall be UW Madison faculty members. The chair, who shall be a law trained UW Madison faculty member, and one additional UW Madison faculty member shall be appointed for two year terms. Other members shall be experts in areas germane to the scholarly misconduct allegations in question, and any member who does not come from the UW Madison faculty shall be a tenured faculty member at an institution of higher education in the United States. All members shall be selected by the provost after consultation with the University Committee.~~

The Committee on Faculty Rights and Responsibilities (CFRR) shall serve as the body to hear the appeal provided for in Section VII of the Faculty Document 2668a. The chair of the CFRR may request the substitution of up to two regular members of the CFRR with not more than two special members of the CFRR who have the scholarly competence and expertise appropriate for the hearing of this matter.

C. ~~The Hearing Committee CFRR shall proceed in accordance with the provisions of UWS 4.04-4.06 and Faculty Document 867a, Part IIIA. and E Faculty Document 2668a. In order to make a finding of misconduct in scholarly research, the committee must be satisfied that there is clear and convincing evidence of such misconduct. Section VII. In this appeal, the University bears the burden of proof for all issues related to the allegations of research misconduct. The faculty member bears the burden of proof for any claims asserted in opposition to the institutional decision.~~

D. Within 10 days after receipt of the Hearing Committee's report service of the notice of the institutional decision, the faculty member may appeal to CFRR by giving written notice of the appeal to the chair of CFRR Deciding Official, as determined under Section VI of Faculty Document 2668a.

1. CFRR shall review the record made ~~before the Hearing Committee~~ by the Inquiry Committee, the Investigation Committee and the Deciding Official, but shall not receive any new evidence. CFRR may ask members of the Hearing Investigation Committee to explain matters within their expertise, and the faculty member is entitled to be present when any such explanation is given and to ask pertinent questions. ~~Within ten days after giving notice of appeal, the faculty member may submit written arguments to CFRR. CFRR will hear oral argument if the faculty member or the Hearing Committee requests it~~ As directed by the CFRR, the faculty member may submit a written statement and appear personally before the CFRR.

2. The ~~action of the Hearing Committee~~ institutional decision shall be affirmed unless CFRR determines (a) that the ~~Hearing Committee's~~ Investigation eCommittee or Deciding Official erred in applying the law and that this error influenced the decision, or (c) that the recommended sanction is inappropriate. In determining whether a factual finding is clearly erroneous, the question to be answered by CFRR is not whether it would have reached the same conclusion as the Hearing Investigation Committee or Deciding Official but, rather, whether reasonable people could have considered the findings to have been supported by ~~clear and convincing~~ a preponderance of the evidence. Similarly, the criterion for reviewing the sanction shall be whether reasonable people could consider it appropriate under the circumstances of the case. If CFRR finds error as defined above, it will recommend to the chancellor actions to remedy the error. If CFRR finds an inappropriate sanction was recommended, it will recommend a different sanction.

3. If the ~~Hearing Committee~~ institutional decision is appealed to CFRR, CFRR shall formulate a written decision and transmit it to the chancellor and the faculty member within ~~ten~~ 45 days after the ~~conclusion of its proceedings~~ initiation of the appeal. Within ten days ~~thereafter of receipt of the recommendation from CFRR~~, the faculty member may file objections with the chancellor.

4. The chancellor shall issue an appeal decision and rationale to affirm, reject or modify the action specified in the recommendation from the CFRR within 30 days of receipt of the recommendation. This period may be extended for good cause.

E. If no appeal is taken to CFRR from the ~~Hearing Committee~~ institutional decision, the faculty member may file objections with the chancellor within ten days after receipt of the ~~Hearing Committee's report~~ institutional decision.

F. Procedures thereafter shall be according to UWS 4.07-4.10 or UWS 6.01.



*Without mark-up*

#### 9.14. PROCEDURES WHEN MISCONDUCT IN SCHOLARLY RESEARCH IS ALLEGED.

Whenever the provost acting as the Deciding Official pursuant to Faculty Document 2668a issued an institutional decision imposing discipline or dismissal of a faculty member on the basis of misconduct in scholarly research, sections 9.01. through 9.05.B., 9.10., and 9.13. of this chapter, as well as other sections specifically noted below, shall govern faculty dismissal and disciplinary actions as follows:

A. The report of the Investigation Committee provided for in Faculty Document 2668a, shall constitute the investigation required by 9.06.A. and the complaint referred to in 9.01. and 9.04. When serving as Deciding Official pursuant to Section VI of Faculty Document 2668a, after reviewing the report of the Investigation Committee and the response, if any, of the faculty member, if the provost believes that dismissal may be warranted, the provost shall proceed in accordance with UWS 4, or, if the provost believes that lesser discipline may be warranted, the provost shall proceed in accordance with 9.06.C.3. or 9.06.C.4., and UWS 6.01. If the provost decides to dismiss the case, he/she shall proceed in accordance with 9.06.C.1. A hearing to appeal provost's actions shall be conducted by the CFRR under Faculty Document 2668a, as provided below and in Faculty Document 2668a Section VII.

B. The Committee on Faculty Rights and Responsibilities (CFRR) shall serve as the body to hear the appeal provided for in Section VII of the Faculty Document 2668a. The chair of the CFRR may request the substitution of up to two regular members of the CFRR with not more than two special members of the CFRR who have the scholarly competence and expertise appropriate for the hearing of this matter.

C. The CFRR shall proceed in accordance with the provisions of UWS 4.04-4.06 and Faculty Document 2668a, Section VII. In this appeal, the University bears the burden of proof for all issues related to the allegations of research misconduct. The faculty member bears the burden of proof for any claims asserted in opposition to the institutional decision.

D. Within 10 days after service of the notice of the institutional decision, the faculty member may appeal to CFRR by giving written notice of the appeal to the Deciding Official, as determined under Section VI of Faculty Document 2668a.

1. CFRR shall review the record made by the Inquiry Committee, the Investigation Committee and the Deciding Official, but shall not receive any new evidence. CFRR may ask members of the Investigation Committee to explain matters within their expertise, and the faculty member is entitled to be present when any such explanation is given and to ask pertinent questions. As directed by the CFRR, the faculty member may submit a written statement and appear personally before the CFRR.

2. The institutional decision shall be affirmed unless CFRR determines (a) that the factual findings are clearly erroneous, or (b) that the Investigation Committee or Deciding Official erred in applying the law and that this error influenced the decision, or (c) that the recommended sanction is inappropriate. In determining whether a factual finding is clearly erroneous, the question to be answered by CFRR is not whether it would have reached the same conclusion as the Investigation Committee or Deciding Official but, rather, whether reasonable people could have considered the findings to have been supported by a preponderance of the evidence. Similarly, the criterion for reviewing the sanction shall be whether reasonable people could consider it appropriate under the circumstances of the case. If CFRR finds error as defined above, it will recommend to the chancellor actions to remedy the error. If CFRR finds an

inappropriate sanction was recommended, it will recommend a different sanction.

3. If the institutional decision is appealed to CFRR, CFRR shall formulate a written decision and transmit it to the chancellor and the faculty member within 45 days after the initiation of the appeal. Within ten days of receipt of the recommendation from CFRR, the faculty member may file objections with the chancellor.

4. The chancellor shall issue an appeal decision and rationale to affirm, reject or modify the action specified in the recommendation from the CFRR within 30 days of receipt of the recommendation. This period may be extended for good cause.

E. If no appeal is taken to CFRR from the institutional decision, the faculty member may file objections with the chancellor within ten days after receipt of the institutional decision.

F. Procedures thereafter shall be according to UWS 4.07-4.10 or UWS 6.01.