

UC SANTA BARBARA POLICY AND PROCEDURE

Research Misconduct Policy and Procedures

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**UNIVERSITY OF CALIFORNIA, SANTA BARBARA
RESEARCH MISCONDUCT POLICY AND PROCEDURES**

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PREAMBLE

University and Academic Senate policies set forth expectations for high standards of ethical behavior for faculty, students and others involved in research and provide procedures for addressing allegations of misconduct in research. Integrity in research includes not just the avoidance of wrongdoing, but also the rigor, carefulness and accountability that are the hallmarks of good scholarship. All persons engaged in research at the University are expected to adhere to the highest standards of intellectual honesty and integrity.

I. DEFINITIONS

Affirmative Defense. A respondent's assertion of facts that, if true, absolve the respondent of liability for an allegation of research misconduct, even if the allegation is true.

Allegation. An allegation is a disclosure of possible research misconduct through any means of communication. The disclosure may be by written or oral statement or other communication to an institutional official or an official of an appropriate funding agency.

Bad Faith. An allegation or cooperation with a research misconduct proceeding is in bad faith if made with knowing or reckless disregard for information that would negate the allegation or testimony. Furthermore, an inquiry or investigation committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.

Complainant. A person who makes an allegation.

Conflict of Interest. Exists when a relationship between a decision-maker and the complainant, the respondent, or the research that is the subject of an allegation creates the potential for compromised judgment and decision-making.

Deciding Official. At the discretion of the RIO, the RIO may appoint a Deciding Official to make final determinations on allegations of research misconduct and any institutional administrative actions.

Department Head. A chair of a department, director of an organized research unit (ORU), or head of an academic unit.

Evidence. Any document, tangible item, or testimony offered or obtained during a research misconduct proceeding that tends to prove or disprove the existence of an alleged fact.

Fabrication. Making up data or results and recording or reporting them.

Falsification. 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.

Good Faith. As applied to a complainant or witness, having a belief—which a reasonable person in the complainant’s or witness’s position could have based on the information known to the complainant or witness at the time—in the truth of one’s allegation or testimony. Good faith as applied to an inquiry or investigation committee member means cooperating with the research misconduct proceeding by impartially carrying out the duties assigned for the purpose of helping an institution meet its responsibilities under this Policy.

Inquiry. Preliminary information-gathering and fact-finding activities that meet the criteria and follow the procedures of this Policy.

Institutional Member. A person who is employed by, is an agent of, or is affiliated by contract or agreement with UCSB. Institutional members may include, but are not limited to, officials, tenured and untenured faculty, teaching and support staff, researchers, research coordinators, clinical technicians, postdoctoral and other fellows, students, volunteers, agents, and contractors, subcontractors, and subawardees, and their employees.

Investigation. The formal development of a factual record and the examination of that record leading to a decision not to make a finding of research misconduct or to a recommendation for a finding of research misconduct which may include a recommendation for other appropriate actions, including administrative actions.

Notice. A written communication served in person, sent by mail or its equivalent to the last known street address, facsimile number or e-mail address of the addressee.

PHS. See “Public Health Service.”

Person. Any individual, corporation, partnership, institution, association, unit of government, or legal entity, however organized.

Personnel Review File. The portion of an individual’s academic personnel record maintained by the University for purposes of considering personnel actions under the relevant criteria and should contain only material relevant to these purposes. Final administrative decisions are to be based solely upon the material contained in the individual’s personnel review file.

Plagiarism. The appropriation without acknowledgement and passing off as one’s own of another person’s words, ideas, processes or research results.

Policy. The University of California, Santa Barbara Research Misconduct Policy.

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

Probable cause. A reasonable ground for belief in alleged facts.

Public Health Service. Public Health Service (PHS) means the unit within the Department of Health and Human Services that includes the Office of Public Health and Science and the

following Operating Divisions: Agency for Healthcare Research and Quality, Agency for Toxic Substances and Disease Registry, Centers for Disease Control and Prevention, Food and Drug Administration, Health Resources and Services Administration, Indian Health Service, National Institutes of Health, and the Substance Abuse and Mental Health Services Administration, and the offices of the Regional Health Administrators.

RIO. See “Research Integrity Officer.”

Recklessness. For purposes of this Policy, misconduct is committed recklessly when an individual makes a false, fabricated or plagiarized representation with callous disregard as to whether or not it is true or requires attribution to another.

Such callous disregard can be demonstrated by evidence that shows the representation is:

- 1) In fact false, misleading, or plagiarized; and
- 2) The individual had a high degree of awareness of the probable falsity or misleading nature or source of the representation or in fact entertained serious doubts as to the truth of the representation. This subjective awareness of the falsity or misleading nature of a representation can be inferred from evidence indicating that there were obvious reasons to doubt the accuracy of the representation and the individual did not act reasonably in dispelling those doubts.

Research. A systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) by establishing, discovering, developing, elucidating or confirming information about, or the underlying mechanism relating to causes, functions or effects or related matters to be studied.

Research record. The record of data or results that embody the facts resulting from scientific inquiry, including but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to the funding agency or an institutional official by a respondent in the course of the research misconduct proceeding.

Researcher. Any person who is engaged in the design, conduct or reporting of research at or for UCSB.

Research Integrity Officer (RIO). The person responsible for administering and providing general oversight of this Policy, assessing allegations, determining when allegations warrant inquiries, overseeing inquiries and investigations, and making final determinations regarding whether research misconduct took place. The RIO at UCSB is the Vice Chancellor for Research.

Research Misconduct. Fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion.

Research misconduct proceeding. Any actions related to alleged research misconduct taken under this part, including but not limited to allegation assessments, inquiries, investigations or

funding agency oversight reviews, hearings, and administrative appeals.

Research Records. The records of data or results that embody the facts resulting from scientific inquiry, including but not limited to research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles, as well as any documents or materials provided to a funding agency or an institutional official by a respondent in the course of the research misconduct proceeding. The primary owner of research records is the University.

Respondent. A person against whom an allegation is made or is the subject of a research misconduct proceeding.

Retaliation. Any adverse action taken against a complainant, witness or committee member by an institution or one of its members in response to a good faith allegation of research misconduct or good faith cooperation with a research misconduct proceeding.

The University or UCSB. The University of California, Santa Barbara.

Whistleblower. See “Complainant.”

II. SCOPE AND APPLICABILITY

The purpose of this policy is to serve as an effective and fair means of following the University's longstanding commitment to encourage and maintain the highest ethical standards in research. All University of California, Santa Barbara ("UCSB") personnel engaged in research are subject to this Policy and are expected to be informed of and to comply with all applicable policies and procedures of the University, campus, departments, and external entities funding their research.¹

III. POLICY

A. Principles and Ethics

This Policy is derived from the principle that quality research requires adherence to the highest standards of integrity in proposing, conducting, and reporting research. All UCSB researchers are expected to uphold the principles that govern intellectual integrity.

Any individual affiliated with UCSB has an ethical obligation to act if he or she suspects research misconduct has occurred. Appropriate actions may include raising questions, seeking perspective from peers or more experienced individuals, or making a written or oral allegation of research misconduct.

Individuals associated with UCSB are expected to cooperate with the RIO and other institutional officials in the review of allegations of research misconduct and the conduct of inquiries and investigations into such allegations. Institutional members, including respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO or other institutional officials.

It is the policy of UCSB to respond fully and fairly to all allegations of research misconduct and to comply with the reporting requirements of applicable funding agencies.

Some improper practices are not considered research misconduct under this Policy but are nonetheless considered misconduct under other University policies. These other policies include, but are not limited to, guidelines relating to conflict of interest, intellectual property, biosafety, use of human and animal subjects, use of University facilities, outside professional activities of faculty members, teacher-student relations, and academic-staff relations.

Disputes about the conduct of research not involving research misconduct or other misconduct should be resolved within the appropriate research group, division, or department. Such disputes might relate to authorship, attribution of credit, confidentiality, access to or interpretations of data, simple negligence, differences of opinion, or honest error.

¹ This Policy meets the research misconduct rules and requirements of most federal funding agencies. In the case of any discrepancies between this policy and that of an applicable federal funding agency, the policy of the federal funding agency shall take precedence.

B. Rights and Responsibilities

B1. Research Integrity Officer—The Vice Chancellor for Research will serve as the RIO and will have primary responsibility for implementation of this Policy. This responsibility includes the following duties related to research misconduct proceedings, which shall be carried out by the RIO or the RIO's designee:

- Consult confidentially with persons uncertain about whether to submit an allegation of research misconduct;
- Receive allegations of research misconduct;
- Assess each allegation of research misconduct in accordance with Section IV.B.2 of this Policy to determine whether it falls within the definition of research misconduct and warrants an inquiry;
- Act as, or appoint, the Deciding Official (DO), who shall receive the investigation report and, after consulting with appropriate institutional officials, decide the extent to which the University accepts the findings of the investigation and, if research misconduct is found, decide what, if any, institutional administrative actions are appropriate.²
- As necessary, take interim action and notify the appropriate research sponsor of special circumstances, in accordance with Section IV.A.2.3 of this Policy;
- Inform respondents, complainants, and witnesses of the procedural steps in the research misconduct proceeding;
- Sequester research data and evidence pertinent to the allegation of research misconduct in accordance with Sections IV.C.1.2 and D.3. of this Policy and maintain it securely in accordance with this Policy and all applicable laws and regulations;³
- Provide confidentiality to those involved in the research misconduct proceeding as required by 42 CFR § 93.108, other applicable law, and this Policy;
- Provide notifications to the respondent as required and provide opportunities for the respondent to review, comment, or respond to allegations, evidence, and committee reports in accordance with Sections IV.C. and D. of this Policy;
- Appoint the chair and members of the inquiry and investigation committees and ensure that those committees are properly staffed and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;
- In accordance with Sections IV.C.1.4 and D.1.1.1 of this Policy, determine whether each person involved in handling an allegation of research misconduct has an unresolved personal, professional, or financial conflict of interest and take appropriate action, including recusal, to ensure that no person with such conflict is involved in the research misconduct proceeding;
- In cooperation with other institutional officials and in accordance with Sections

² If required by the applicable funding agency, the DO shall ensure that the final investigation report, the findings of the DO and a description of any pending or completed administrative actions are provided to the appropriate funding agency, as required by 42 CFR § 93.315 or other applicable law.

³ Research records belong to the University, and the research records involved in an allegation shall be surrendered to the RIO upon request. The RIO may engage Audit & Management Advisory Services to take possession of potentially relevant evidence.

IV.A.2.9, C.7.5.2, D.9.5.3, F.2. and F.3. of this Policy, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and counter potential or actual retaliation against them by respondents or other institutional members;

- Keep those entitled to notice, as indicated in this Policy, apprised of the progress of the review of the allegation of research misconduct;
- Notify and make reports to the appropriate research sponsor as required by applicable law and this Policy;
- Ensure that administrative actions taken by the institution and the research sponsor, if any, are enforced and take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, and licensing boards of those actions;
- Create and retain records of the research misconduct proceeding and make them available to the appropriate research sponsor, if necessary, in accordance with 42 CFR § 93.317 or any other applicable laws or regulations.

B2. Complainant—The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation.

The complainant may be interviewed at the inquiry stage. Upon request and at the RIO's discretion, the complainant may be given relevant portions of the inquiry report and may be given the opportunity, within a timeframe that permits the inquiry to be completed within 60 days of its initiation, to submit comments on the inquiry report.⁴

Each complainant shall be interviewed at the investigation stage and given the transcript or recording of the interview for correction.⁵ Upon request and at the RIO's discretion, the complainant may be given a copy of the draft investigation report or relevant portions of that report for comment.⁶ The comments of the complainant, if any, must be submitted within 30 days of the date on which the complainant received the draft investigation report or relevant portions of it.⁷

Complainants are encouraged to address suspected research misconduct through the procedures outlined in this Policy rather than through public disclosure and are cautioned that public disclosure of an allegation may render such complainants vulnerable to legal causes of action, such as violation of the respondent's right of privacy under California law and University policy.

B.3. Respondent—The respondent is responsible for maintaining confidentiality and for cooperating with the inquiry and investigation proceedings.

⁴ 42 CFR § 93.308(b).

⁵ 42 CFR §93.310(g).

⁶ 42 CFR §93.312(b).

⁷ 42 CFR §93.312(b).

In addition, the respondent is entitled to:

- A good faith effort from the RIO to notify the respondent in writing at the time of or before beginning an inquiry;⁸
- An opportunity to comment on the inquiry report and have his/her comments attached to the report;⁹
- Notification of the outcome of the inquiry and a copy of the inquiry report that includes a copy of, or refers to this Policy and 42 CFR Part 93 or any other applicable law;¹⁰
- Notification in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins, and notification in writing of any new allegations, not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;¹¹
- Be interviewed during the investigation, have the opportunity to correct the recording or transcript, and have the corrected recording or transcript included in the record of the investigation;¹²
- A copy of the draft investigation report and, concurrently, a copy of, or supervised access to the evidence on which the report is based.¹³
- An opportunity to submit comments on the draft investigation report and notification that such comments must be submitted within 30 days of the date on which the copy was received and that the comments will be considered by the institution and addressed in the final report.¹⁴
- If requested and as appropriate, the RIO and other 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.¹⁵
- The opportunity to admit that research misconduct occurred and that the respondent committed the research misconduct. With the advice of the RIO and/or other institutional officials, the Deciding Official may terminate the institution's review of an allegation that has been admitted.¹⁶

⁸ 42 CFR §§ 93.304(c), 93.307(b).

⁹ 42 CFR §§ 93.304(e), 93.307(f).

¹⁰ 42 CFR § 308(a).

¹¹ 42 CFR § 310(c).

¹² 42 CFR § 310(g).

¹³ 42 CFR § 93.312(a).

¹⁴ 42 CFR §§ 93.304(f), 93.312(a).

¹⁵ 42 CFR § 93.304(k).

¹⁶ If the allegation of research misconduct involves an application or proposal for support from PHS or PHS-supported research or training, ORI must approve UCSB's acceptance of the admission and any proposed settlement before UCSB may terminate the institutional review.

IV. PROCEDURES FOR RESPONDING TO ALLEGATIONS OF RESEARCH MISCONDUCT

A. OBJECTIVES AND GENERAL PROVISIONS

A1. Objectives: In dealing with allegations under these procedures, UCSB shall be guided by the following general objectives:

A1.1 Institutional responsibility for self-regulation shall be preserved.

A1.2 Appropriate and timely action shall be taken to investigate and address allegations.

A1.3 Funding agency requirements for timely notification shall be followed.

A1.4 This Policy shall be administered in a manner that fairly protects: (i) the due process rights of the respondent; (ii) the interests of complainants and those serving as witnesses in the investigation of research misconduct; and (iii) the public interest in preserving the integrity of research.

A1.5 The confidentiality of inquiries, investigations, and the identities of complainants and respondents shall be protected subject to applicable law, the need for an effective response and the reporting requirements of any applicable funding agency.

A1.6 Bias and misjudgments caused by conflicts of interest shall be avoided.

A1.7 Campus officials shall administer this Policy in coordination with other applicable policies and procedures, including the [University of California Policy for Protection of Whistleblowers](#).

A2. General Provisions: The following are generally applicable to allegations, inquiries, and investigations under this Policy:

A2.1 Period of limitation. In order to be actionable under this policy, all allegations of research misconduct must be reported to the RIO or department head (see Section B, below) within six years of the alleged occurrence of research misconduct, except in the following circumstances:¹⁷

1. The respondent continues or renews any incident of alleged research misconduct that occurred before the six-year limitation through the citation, republication or other use for the potential benefit of the respondent of the research record that is alleged to have been fabricated, falsified, or plagiarized.
2. If the appropriate funding agency or UCSB, following consultation with the funding agency, determines that the alleged misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public.

¹⁷ 42 CFR § 93.105.

A2.2 Confidentiality. To the extent possible, the RIO shall use best efforts to: (1) limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding;¹⁸ and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding.¹⁹ The RIO should use written confidentiality agreements or other mechanisms to ensure that the recipient does not make any further disclosure of identifying information.

Members of both inquiry and investigation committees are expected to be extremely circumspect, contacting only those likely to have critical information and apprising them of the need for confidentiality. Interviews of witnesses outside of the University should occur only after consultation with the RIO and/or the committee chair to assure the necessity of such interviews and the development of an appropriate approach to maximize the confidentiality of the inquiry or investigation.

A2.3 Risk of Loss or Abuse of Funds, Equipment, or Materials. If, in the judgment of the RIO, there appears to be a risk of loss or misuse of funds relating to an allegation, a risk of destruction or abuse of equipment or materials purchased with those funds, or a risk of harm to the public health or safety from circumstances relating to an allegation, the RIO shall instruct the respondent's department head to take interim administrative actions to protect those funds, equipment, materials or public health and safety.

If, at any time during a research misconduct proceeding, any institutional member develops reason to believe that any of the following conditions exist, the institutional member must immediately notify the RIO, who shall notify the appropriate funding agency within 24 hours:²⁰

- a. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
- b. The funding agency's resources, reputation or other interests are threatened.
- c. Research activities should be suspended.
- d. There is reasonable indication of possible violations of civil or criminal law.
- e. Federal action may be required to protect the interests of those involved in the research misconduct proceeding.
- f. The research institution believes the research misconduct proceeding may be made public prematurely so that the appropriate funding agency may take appropriate steps to safeguard evidence and protect the rights of those involved.
- g. The research community or public should be informed.

¹⁸ 42 CFR § 93.108(a). When required by federal funding agency regulations, the University shall disclose the identity of respondents and complainants to the funding agency. See 42 CFR § 93.108(a)(1).

¹⁹ 42 CFR § 93.108(b).

²⁰ 42 CFR § 93.318.

- A2.4 Duty to Respond. The University is required to respond to allegations and to take them seriously. After receiving an allegation, the University shall undertake an inquiry if the RIO determines that an inquiry is warranted (see Section B.2.).
- A2.5 Resignation of Respondent. The death, resignation, or termination of employment, enrollment, or appointment of a respondent shall not, in itself, result in the dismissal of a proceeding hereunder, although it may affect the imposition of discipline.
- A2.6 Delays. Failure to complete an inquiry, investigation, or other process within the time frame prescribed in this Policy shall not be grounds for dismissing an allegation.
- A2.7 Legal Advice. Throughout the process of handling an allegation, the RIO, the department head, and committee members shall consult with campus or University counsel, as needed, for advice and to ensure compliance with this Policy.
- A2.8 RIO Discretion. Consistent with the requirements of the appropriate funding agency and University policies, the RIO has the discretion to extend time frames, expand the scope of the inquiry or investigation, or to take other action he or she deems appropriate in applying this Policy.
- A2.9 Retaliation against Complainants or Other Persons. Institutional members may not retaliate in any way against complainants, witnesses, or committee members. Institutional members should immediately report any alleged or apparent retaliation against complainants, witnesses or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and to protect and restore the position and reputation of the person against whom the retaliation is directed.

In addition, employees who 1) are covered by the [University of California Policy for Protection of Whistleblowers](#) and 2) believe that they have been retaliated against should report such retaliation in accordance with the [University of California Policy for Protection of Whistleblowers](#).

- A2.10 Early Termination. Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. However, the RIO may terminate an inquiry or investigation prior to completion of all the steps enumerated in this Policy on the basis that the respondent has admitted guilt, a settlement with the respondent has been reached, or for any other rational reason. Except when a case is closed at the inquiry stage on the basis that an investigation is not warranted or the investigation yields a finding of no misconduct, the RIO must notify the appropriate funding agency in advance of an early termination and the reasons therefore.²¹

²¹ 42 CFR § 93.316(a).

B. ALLEGATIONS OF MISCONDUCT

- B1. Reporting Suspected Misconduct. Suspected research misconduct may be reported first to a department head, but also can be reported directly to the RIO. If an allegation is reported first to a department head, the department head should notify the RIO. A department head receiving an allegation is encouraged to consult with the RIO at any time, and must do so regarding any uncertainty about the handling of an allegation, its appropriate classification and referral, or any conflict of interest. Reports from outside the University should be directed to the RIO.
- B2. Initial Assessment of an Allegation. After receiving an allegation, the department head or the RIO shall conduct an assessment to determine if an inquiry is warranted. An inquiry is warranted if the allegation concerns research misconduct and is sufficiently credible and specific such that potential evidence of research misconduct may be identified.²² In addition, the department head or RIO shall determine if the allegation is covered by another University policy or is clearly groundless.

The assessment period should be as brief as practicable. In conducting the assessment, the RIO need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

If the respondent is to be notified of the allegation, the RIO shall, on or before the date on which the respondent is notified of the allegation, promptly take all reasonable and practical steps to obtain custody of, inventory, and sequester all research records and evidence needed to conduct the research misconduct proceeding, as provided in paragraph C.1.2. of this Section.

- B2.1 Multiple Policies Involved. If an allegation gives rise to investigative responsibilities under more than one University policy, the RIO receiving the allegation shall consult with other appropriate administrative offices to coordinate a consistent and effective review of the facts under this Policy and related policies. If the allegation relates only to a single University policy other than this Policy (e.g., use of animal or human subjects, sexual harassment, conflict of interest, or [Faculty Code of Conduct](#)), then the allegation shall be referred to the appropriate campus official.
- B2.2 Dispute about Research Practices. If the allegation does not involve research misconduct, then the allegation shall be resolved through mediation, other applicable policies, or informally, at the discretion of the department head and the RIO.
- B2.3 Findings of the Initial Assessment. If a department head or the RIO determines that

²² 42 CFR § 93.307(a).

the allegation concerns research misconduct and is sufficiently credible and specific such that potential evidence of research misconduct may be identified, then an inquiry must be conducted.²³ Otherwise, the department head or RIO may take other steps to address the allegation as necessary.

B2.3.1 Groundless Allegations. If the department head or RIO determines that the allegation is clearly groundless, he or she shall prepare and maintain a memorandum separate from the respondent's personnel review file and shall inform the complainant of the decision not to proceed. In such a case, the respondent does not need to be informed of the allegation.

C. CONDUCTING THE INQUIRY

C1. Initiating an Inquiry. The RIO, upon determining that an inquiry is warranted, shall take the following actions:

C1.1 Notification of Interested Parties. Immediately after appointing an inquiry committee or determining that none shall be used, the RIO shall provide written notification of the nature of the allegation and the appointment of the inquiry committee, if any, to the respondent,²⁴ the appropriate deans and department heads, and others who need to know, including the complainant and the respondent's department head. If the respondent is an academic appointee, then the executive vice chancellor and appropriate dean shall be notified. The RIO shall also provide the respondent with a copy of this Policy. The RIO may, at his or her discretion, provide the respondent and/or the complainant with written notification of the inquiry committee's membership.

Only if explicitly required to do so by law and agency requirements, contract, or funding agreement will the RIO inform the appropriate external agencies or private sponsors that an inquiry is being undertaken. If the allegation involves work performed at or a researcher affiliated with another institution, the University shall work with that institution to determine the best course of dealing with the allegation and any subsequent proceedings.

C1.2 Sequestration of Research Records. The primary owner of research records is the University, and the University, therefore, has the right of access to the supporting records for all research carried out through the University. The University will take necessary steps to ensure that information or data that would violate the confidentiality of sources or subjects involved in the research is not disclosed. In addition, extramural sponsors providing support for research may have the right to review any data and records resulting from that extramural support.

²³ 42 CFR § 93.307(a).

²⁴ 42 CFR § 93.307(b). If the inquiry subsequently identifies additional respondents, they must be notified in writing as soon as practicable.

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. However, 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.²⁵ Where appropriate in the RIO's discretion, the RIO shall give the respondent copies of or reasonable, supervised access to the research records.²⁶ The RIO shall also undertake all reasonable and practical efforts to take custody of additional research records or evidence that is discovered during the course of a research misconduct proceeding, 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.²⁷

C1.3 Identification of Funding Sources. The RIO shall identify all research grants and funding agencies involved in the research that is the subject of the allegation.

C1.4 Appointment of the Inquiry Committee. After consultation with appropriate deans, the RIO may decide to either conduct the inquiry him- or herself or appoint an inquiry committee. If the RIO appoints an inquiry committee, it should consist of individuals who have the appropriate scientific expertise to evaluate the evidence and issues related to the allegation and who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry. To prevent misjudgments caused by conflicts of interest, the RIO shall require explicit disclosure of any personal, professional, or financial conflicts of interest between the potential committee members and the respondent, the complainant or any witnesses. The RIO shall provide the committee with instructions for carrying out the inquiry.

C1.4.1 Charge to the Committee and First Meeting. If a committee is to conduct the inquiry, at the committee's first meeting the RIO will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by the committee. The RIO will be present or available throughout the inquiry to advise the committee as needed.²⁸

C2. Scope of the Inquiry. The purpose of the inquiry is to conduct an initial review of the

²⁵ 42 CFR §§ 93.305(a), 307(b).

²⁶ 42 CFR § 93.305(b).

²⁷ 42 CFR § 93.305(c).

²⁸ See the Research Misconduct Procedures for the RIO and Committee Members for more details on what the charge to the committee should include.

available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.²⁹ The scope of the inquiry does not include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct, or conducting exhaustive interviews and analyses. However, if the respondent makes a legally sufficient admission of research misconduct, misconduct may be determined at the inquiry stage if all relevant issues are resolved.

- C3. Findings of the Inquiry. The RIO or the inquiry committee, if used, will evaluate the evidence, including the testimony obtained during the inquiry. The RIO, or the committee members after consultation with the RIO, will decide whether an investigation is warranted. An investigation is warranted if (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct under this Policy and (2) preliminary information-gathering and preliminary fact-finding from the inquiry indicate that the allegation may have substance.³⁰
- C4. Time Limit. Unless circumstances clearly warrant a longer period, the inquiry must be completed within 60 calendar days of the date that the inquiry committee is appointed or the date that the RIO determines that no inquiry committee will be used.³¹ Any extension of this time limit requires approval of the RIO, must be documented in the final inquiry report, and should comply with the applicable requirements of external funding agencies.
- C5. The Inquiry Report. The RIO, or the inquiry committee if used, shall prepare a written inquiry report. The inquiry report must include (1) the name and position of the respondent; (2) a description of the allegations of research misconduct; (3) details about the extramural support funding the research, including, for example, grant numbers, grant applications, contracts and publications; (4) the basis for recommending or not recommending that the allegations warrant an investigation; and (5) any comments on the draft report by the respondent or complainant.^{32, 33}
- C6. Finalizing the Inquiry Report.
- C6.1 Opportunity to Comment. The respondent shall be given an opportunity to review the inquiry report and to submit comments on the inquiry report to the RIO or inquiry committee, if used, within a timeframe that permits the inquiry to be completed within 60 days of its initiation.³⁴

Upon request and at the RIO's discretion, the complainant may be given relevant portions of the inquiry report and may be given the opportunity, within a timeframe

²⁹ 42 CFR § 307(c).

³⁰ 42 CFR §§ 93.307(d).

³¹ 42 CFR §§ 93.307(g).

³² 42 CFR § 93.309(a).

³³ If the allegation of research misconduct involves an application or proposal for support from PHS or PHS-supported research or training, within 30 days of finding that an investigation is warranted, UCSB must provide ORI with the written inquiry report. 42 CFR § 93.309(a).

³⁴ 42 CFR § 93.307(f).

that permits the inquiry to be completed within 60 days of its initiation, to submit comments on the inquiry report.

- C6.2 RIO Review. If an inquiry committee is used, the committee shall promptly submit a draft inquiry report to the RIO at the conclusion of the inquiry. The RIO shall review the draft report within seven calendar days of its receipt to ensure that: (i) the committee has completed its charge; (ii) the report provides sufficient information to justify the committee's findings; (iii) the report does not include information that is inappropriate; and (iv) the report is in proper form. If the report is inadequate in any of these respects, the RIO shall request necessary modifications. If the committee fails to make the necessary changes, then at his or her discretion, the RIO may appoint a new committee or make revisions him- or herself.
- C6.3 Revisions by Committee. If the RIO refers the draft back to the inquiry committee for modification or finalization, the committee shall submit a final, signed report, satisfactory to the RIO, within seven calendar days. If additional time is needed to revise the report or conduct further inquiry, then the committee shall request an extension of time from the RIO.
- C6.4 Determination by the RIO. Within seven calendar days of receiving the final report, if an inquiry committee is used, or of concluding the inquiry, if no committee is used, the RIO shall, in consultation with University counsel, decide in writing whether research misconduct may have occurred such that an investigation is warranted.
- C7. Notifications and Actions. Upon completion of the final inquiry report, the RIO shall promptly notify all interested parties and take appropriate actions as follows:
- C7.1 Notification of the Respondent. The RIO must notify the respondent whether the inquiry found that an investigation is warranted. The notice must include a copy of the inquiry report and must either include a copy of or refer to the appropriate funding agency regulations and this Policy.³⁵
- C7.2 Notification of Other Interested Parties. The RIO may notify the complainant whether the inquiry found that an investigation is warranted.³⁶ In his or her discretion and upon request, the RIO may provide the complainant or others involved in the inquiry—such as those notified of the inquiry or witnesses—with a written summary of the inquiry committee's findings and the RIO's determination in the case.
- C7.3 Notification of the Appropriate Funding Agency. Within 30 calendar days of the RIO's decision that an investigation is warranted, the RIO will notify the agency or

³⁵ 42 CFR § 93.308(a).

³⁶ 42 CFR § 93.308(b).

agencies that provided funding to support the research or proposed research from which the allegation of research misconduct arose.³⁷ The RIO will also notify any appropriate institutional officials of the inquiry decision.

C7.4 Documentation of Decision Not to Investigate. If the RIO decides that an investigation is not warranted, the RIO shall secure and maintain for seven years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by the relevant funding agency of the reasons why an investigation was not conducted. These documents must be provided to the relevant funding agency upon request.³⁸

C7.5 Actions.

C7.5.1 Finding of Violations other than Research Misconduct. If the RIO determines that an investigation is not warranted but that the respondent nonetheless may have violated commonly accepted research standards or other University policies, then the RIO may refer such possible violations in a separate summary memorandum to the appropriate administrative office and/or the researcher's supervisor for action. If appropriate, such information may be considered in the applicable performance review process. In the case of academic appointees, the RIO, in consultation with the appropriate dean, and the respondent may agree that the imposition of written censure is appropriate, in which case a letter of written censure shall be signed by both parties and maintained by the RIO. If written censure cannot be negotiated, and the RIO nonetheless believes that discipline should be pursued, then the RIO shall proceed under Section E below. Those who need to know should be informed of this outcome.

C7.5.2 Finding that an Allegation Lacks Substance. If the RIO determines that the allegation is without substance, then he or she shall, in consultation with the respondent and University counsel as needed, make reasonable efforts to notify appropriate individuals and organizations of the outcome of the inquiry for the purpose of restoring the respondent's reputation.³⁹ Any written responses to these efforts shall be placed in the record of the inquiry. If the RIO determines that the allegation was made in bad faith, then the RIO shall take appropriate administrative action against the complainant.

D. CONDUCTING THE INVESTIGATION

³⁷ If the allegation of research misconduct involves an application or proposal for support from PHS or PHS-supported research or training, the RIO shall also provide within 30 calendar days the written inquiry decision and a copy of the inquiry report to ORI. 42 CFR § 93.309(a). In addition, upon request, the RIO must provide PHS with the information listed in 42 CFR § 93.309(b).

³⁸ 42 CFR § 93.309(c).

³⁹ 42 CFR § 93.304(k).

D1. Initiation and Purpose. The investigation must begin within 30 calendar days after the determination by the RIO that an investigation is warranted.⁴⁰ 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 there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations.

D1.1 Appointment of the Committee. The RIO, in consultation with other institutional officials as appropriate, will appoint an investigation committee and the committee chair as soon after the beginning of the investigation as is practical. The investigation committee must consist of individuals who do not have 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.⁴¹ Individuals appointed to the investigation committee may also have served on the inquiry committee. When necessary to secure the necessary expertise or to avoid conflicts of interest, the RIO may select committee members from outside the University.

D1.1.1 Conflicts of Interest. Prior to appointing members to the committee, the RIO shall request that proposed members of the committee disclose any conflicts of interest. The RIO may, in his or her discretion, notify the respondent and/or the complainant of the proposed committee membership, and if the respondent or complainant submits a written objection within seven days to any proposed member of the investigation committee, the RIO may replace the challenged member with a qualified substitute. If either the respondent or complainant does not object in a timely fashion, he or she will be deemed to have accepted the proposed committee membership.

D1.1.2 Instructions. The RIO shall provide the committee with instructions for carrying out the investigation.

D2. Notifying Interested Parties before the Investigation Begins.

D2.1 Notifying the Respondent. Within a reasonable amount of time after determining that an investigation is warranted, but before the investigation begins, the RIO must notify the respondent in writing of the allegations to be investigated and of the appointment of the investigation committee.⁴² The RIO must also give the respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during

⁴⁰ 42 CFR § 93.310(a).

⁴¹ 42 CFR § 93.310(f).

⁴² 42 CFR § 93.310(c).

the inquiry or in the initial notice of the investigation.⁴³

D2.2 Notifying the Appropriate Funding Agency. Consistent with applicable laws, agency requirements, and contractual agreements, on or before the date the investigation begins the RIO shall inform the appropriate funding agency of the decision to open an investigation.⁴⁴

D2.3 Notifying Other Interested Parties. On or before the date on which the investigation begins, the RIO may, in his or her discretion, provide written notification of the nature of the allegation and the appointment of the investigation committee to the executive vice chancellor, appropriate vice chancellor, dean, or others who need to know, including the complainant or the respondent's department head. If the investigation involves work performed at or a researcher affiliated with another institution, the University shall work with that institution to determine the best course of carrying out the investigation.

D3. Sequestration of Research Records. Prior to notifying the respondent of the decision to conduct an investigation, the RIO will take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the research misconduct proceeding that were not previously sequestered during the inquiry.⁴⁵ 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 as during the inquiry.

D4. Time Limit. In general, the University must complete all aspects of an investigation within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment in accordance with 42 CFR § 93.312, and sending the final report to the appropriate funding agency, as required.⁴⁶ If the University is unable to complete the investigation within this time frame, the RIO shall comply with applicable funding agency regulations to obtain an extension of time.⁴⁷

D5. Responsibilities of the Investigation Committee. The Investigation committee shall take the following actions:

- 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;⁴⁸

⁴³ 42 CFR § 93.310(c).

⁴⁴ 42 CFR §§ 93.304(d), 310(b).

⁴⁵ 42 CFR § 93.310(d).

⁴⁶ 42 CFR § 93.311(a).

⁴⁷ If the allegation of research misconduct involves an application or proposal for support from PHS or PHS-supported research or training, the University must request an extension from ORI if the investigation cannot be completed within 120 days. 42 CFR § 93.311(b).

⁴⁸ 42 CFR § 93.310(e).

- Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;⁴⁹
- 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;⁵⁰
- Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion.⁵¹

D6. Requirements for Findings of Research Misconduct.

D6.1. Evidentiary standard. At the investigation stage, in order to find that research misconduct has occurred, the committee must determine that:⁵²

- a) The respondent engaged in a significant departure from accepted practices of the relevant research community; and
- b) The respondent committed the misconduct intentionally, knowingly, or recklessly; and
- c) The evidence before the investigation committee supports a finding of research misconduct by a preponderance of the evidence.

D6.2. Burdens of proof.

D6.2.1 The Occurrence of Research Misconduct. During the investigation, the University has the burden of establishing through the evidentiary record by a preponderance of the evidence that research misconduct has occurred. The destruction, absence of, or respondent's failure to provide research records adequately documenting the questioned research is evidence of research misconduct where the University establishes, by a preponderance of the evidence, that the respondent intentionally, knowingly, or recklessly had research records and destroyed them, had the opportunity to maintain the records but did not do so, or maintained the records and failed to produce them in a timely manner and that the respondent's conduct constitutes a significant departure from accepted practices of the relevant research community.⁵³

D6.2.2 Affirmative Defenses. The respondent has the burden of raising and proving by a preponderance of the evidence any and all relevant affirmative defenses. Affirmative defenses may include, but are not

⁴⁹ 42 CFR § 93.310(f).

⁵⁰ 42 CFR § 93.310(g).

⁵¹ 42 CFR § 93.310(h).

⁵² 42 CFR §§ 93.104, 93.106(a).

⁵³ 42 CFR § 93.106(b)(1).

limited to, honest error and differences of opinion.⁵⁴

D6.2.3 Mitigating Factors. The respondent has the burden of raising and proving by a preponderance of the evidence any mitigating factors that are relevant to a decision to impose administrative actions following a research misconduct proceeding.⁵⁵

D7. Report of the Investigation Committee. The findings of the investigation committee must be set forth in a written investigation report.⁵⁶ The report of the investigation committee shall:⁵⁷

- Describe the nature of the allegations of research misconduct.
- Describe and document the external funding support, including, for example, any grant numbers, grant applications, contracts, and publications listing such support.
- Describe the specific allegations of research misconduct considered in the investigation.
- Include the institutional policies and procedures under which the investigation was conducted.
- Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody but not reviewed.
- For each separate allegation of research misconduct identified during the investigation, provide a finding as to whether research misconduct did or did not occur, and if so—
 - 1) Identify whether the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;
 - 2) Summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the respondent;
 - 3) Identify the specific external funding support;
 - 4) Identify whether any publications need correction or retraction;
 - 5) Identify the person(s) responsible for the misconduct; and
 - 6) List any current support or known applications or proposals for support that the respondent has pending with federal funding agencies.
- Include and consider any comments made by the respondent or complainant on the draft investigation report.

D7.1 Maintaining records. The University shall maintain for seven years after the completion of the investigation and provide to the appropriate funding agency upon request all relevant research records⁵⁸ and records of the institution's research misconduct proceeding,⁵⁹ including results of all interviews and the transcripts or recordings of such interviews.⁶⁰

D8. Finalizing the Report of the Investigation Committee.

⁵⁴ 42 CFR § 93.106(b)(2).

⁵⁵ 42 CFR § 93.106(b)(3).

⁵⁶ 42 CFR § 93.313.

⁵⁷ 42 CFR § 93.313(a)-(g).

⁵⁸ As defined in 42 CFR § 93.224.

⁵⁹ As defined in 42 CFR § 93.317(a).

⁶⁰ 42 CFR § 93.313(h).

- D8.1 RIO Review. RIO review and committee revisions shall follow the same processes as those set forth in Section C.6., above.
- D8.2 Review and Response by the Respondent. The RIO must give the respondent 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 respondent shall be given 30 days from receiving the draft investigation report to submit comments, if any, on the draft report to the RIO.⁶¹ The committee shall consider the respondent's comments and shall include and address the comments in the final report⁶²
- D8.3 Review and Response by the Complainant. Upon request and at the RIO's discretion, the complainant may be given a copy of the draft investigation report or relevant portions thereof for comment.⁶³ The comments of the complainant, if any, must be submitted within 30 days of the date on which the complainant received the draft investigation report or relevant portions.⁶⁴ The committee shall consider the complainant's comments and shall include and address the comments in the final report.⁶⁵
- D8.4 Confidentiality. In distributing the draft report, or portions thereof, to the respondent or complainant, the RIO will inform the respondent or complainant of the confidentiality under which the draft report is made available. In particular, recipients of the draft report, or portions thereof, must not disclose the identity of other complainants or respondents to those outside of the investigation process (i.e., the RIO, the investigation committee, and any university or departmental personnel who have been informed of the respondents' or complainants' identities by the RIO or the investigation committee).⁶⁶ In order to maintain confidentiality, the RIO may impose reasonable conditions on the respondent's or complainant's ability to review the investigation report, or portions thereof, such as requiring that the respondent or complainant sign a confidentiality agreement.
- D8.5 Revisions by Committee. A final, signed report shall be submitted to the RIO within seven calendar days of receipt of the responses from the respondent and complainant, if any, or within seven calendar days from the expiration of the 30-day period for submission of comments, if none are received. If additional time is needed to review the respondent's or complainant's responses, conduct additional investigation, or correct any factual errors, then the committee shall request an extension of time from the RIO.
- D8.6 Determination by RIO. Within seven calendar days of his or her receipt of the final

⁶¹ 42 CFR § 93.312(a).

⁶² 42 CFR §§ 93.304(f), 93.313(g).

⁶³ 42 CFR § 93.312(b).

⁶⁴ 42 CFR § 93.312(b).

⁶⁵ 42 CFR §§ 93.304(f), 93.313(g).

⁶⁶ 42 CFR § 93.108(a).

report, and in consultation with campus or University counsel, the RIO shall make a written determination as to whether a preponderance of evidence exists to support a finding of research misconduct.

D9. Notifications and Actions after the Investigation is Complete. Upon acceptance of the final report of the investigation, the RIO shall promptly notify all interested parties and take appropriate actions as described below.

D9.1 Notification of the Respondent. The RIO shall provide the respondent with a final copy of the investigation report and his or her determination about whether research misconduct has occurred.

D9.2 Notification of the Complainant. The RIO may, in his or her discretion, provide the complainant with a written summary of the investigation committee's findings and the RIO's determination in the case.

D9.3 Notification of Other Interested Parties. In his or her discretion and upon request, the RIO may provide other individuals involved in the investigation (e.g., those notified of the investigation and witnesses) with a written summary of the investigation committee's findings and the RIO's determination in the case.

D9.4 Notification of the Appropriate Funding Agency. The RIO shall provide a copy of the final report to the appropriate funding agency and to affiliated institutions, in compliance with regulations or contractual agreements.⁶⁷

D9.5 Actions. Depending on the findings, the RIO shall take appropriate actions as follows.

D9.5.1 Finding of Research Misconduct. If the RIO finds that research misconduct has occurred, then he or she shall initiate disciplinary action (as delineated in Section E) and, in consultation with University counsel, shall take any necessary corrective steps, including correction of the published record.

D9.5.2 Finding of Violations other than Research Misconduct. If the RIO finds that research misconduct did not occur but that the respondent may have violated commonly accepted research standards or other University policies, then administrative action or discipline may be appropriate. The RIO may refer violations of University policies other than this Policy to the appropriate administrative office for action. In the case of non-senate

⁶⁷ If the allegation of research misconduct involves an application or proposal for support PHS or PHS-supported research or training, the RIO must, within the 120-day period for completing the investigation (unless an extension has been granted), submit the following to ORI: (1) a copy of the final investigation report with all attachments; (2) a statement of whether the institution accepts the findings of the investigation report; (3) a statement of whether the institution found misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the respondent. 42 CFR §§ 93.311(a), 93.315.

academic appointees, the RIO and the respondent may agree that the imposition of written censure is appropriate, in which case a letter of written censure shall be signed by both parties and maintained by the RIO. If written censure cannot be negotiated, and the RIO nonetheless believes that discipline should be pursued, then the RIO shall proceed under Section E.2. below. Those with a need to know should be informed of this outcome.

D9.5.3 Finding that an Allegation is not Supported. If the RIO finds that the allegation is not supported by a preponderance of the evidence, then the RIO shall make diligent efforts to make known the outcome of the investigation to appropriate individuals and organizations identified by the RIO, in consultation with the respondent, with the intention of restoring the respondent's reputation if affected by the allegation.⁶⁸ Written responses to the decision shall be placed in the record of the investigation. Furthermore, any interim administrative restrictions imposed on the respondent shall be lifted.

D10. Appeals. Neither the findings of an investigation committee, nor the RIO's determination that research misconduct has occurred, shall be subject to institutional appeal by any party.

E. DISCIPLINE

E1. Discipline for Research Misconduct – Academic Senate Faculty. If the respondent is an Academic Senate faculty member, disciplinary action shall be initiated, and may be imposed, only in accordance with the [UC Academic Personnel Manual](#). At the completion of that process, the chancellor shall inform the RIO in writing of the discipline imposed on the respondent, and the RIO shall notify any appropriate funding agency and affiliated institutions of the final outcome.⁶⁹

E2. Discipline for Research Misconduct – Researchers Who are not Academic Senate Faculty. Within 30 calendar days of receiving a final report from an investigation committee containing a finding of research misconduct, the RIO shall initiate disciplinary action as described below. The University official responsible for discipline shall inform the RIO in writing of the discipline imposed on the respondent. The RIO shall notify any appropriate funding agency and affiliated institutions of the final outcome.⁷⁰

E2.1 Non-Senate Academic Appointees

E2.1.1 Non-Senate Academic Appointees Not Subject to a Memorandum of Understanding (MOU). The RIO shall refer the report of the investigation committee to the respondent's supervisor, with a copy to the department

⁶⁸ 42 CFR § 93.304(k).

⁶⁹ 42 CFR § 93.315(d).

⁷⁰ 42 CFR § 93.315(d).

head. In consultation with the supervisor, the RIO shall recommend appropriate discipline. The supervisor shall initiate disciplinary action in accordance with [APM 150 – Non-Senate Corrective Action and Dismissal](#).

When the recommended disciplinary sanction is dismissal, [Academic Personnel Manual 150-40, Procedures for Dismissal of a Non-Senate Faculty Appointee](#), applies.

E2.1.2 Academic Appointees Subject to an MOU. The RIO shall refer the report of the investigation committee to the appropriate authority to initiate disciplinary action, as prescribed in the MOU.

E2.2 Staff Members. If the respondent is a staff member, the RIO shall refer the report of the investigation committee to the staff member's department head with the recommendation that disciplinary action be taken. Discipline shall be imposed in accordance with staff personnel policies or, in the case of an appointee covered by an MOU, in accordance with the discipline and dismissal article of the applicable MOU.

E2.3 Students. Requests for disciplinary action involving an undergraduate or graduate student shall be referred to the student conduct coordinator for processing in accordance with the [UCSB Student Conduct Code](#).

E2.4 Postdoctoral Scholars. Disciplinary action involving a postdoctoral scholar, trainee, or fellow shall be dealt with by the appropriate dean and the Vice Chancellor for Research in consultation with UCSB's offices of Academic Personnel and Labor Relations.⁷¹

E3. Notifications.

E3.1 Respondent. The respondent shall be notified of any applicable rights to grieve a disciplinary action.

E3.2 External Agencies. If the case is reviewed by an external agency, then the RIO may report the final disposition to interested parties.

F. OTHER CONSIDERATIONS

F1. Termination or Resignation Prior to Completing Inquiry or Investigation. The termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the institution's responsibilities under this Policy or the law.

⁷¹ See the [Red Binder III-17](#).

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

- F2. Restoration of the Respondent's Reputation. Following a final finding of no research misconduct, the RIO must, at the request of the respondent, undertake all reasonable and practical efforts to restore the respondent's reputation.⁷² Depending on the particular circumstances and the views of the respondent, the RIO should notify 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.
- F3. Protection of the Complainant, Witnesses and Committee Members. During the research misconduct proceeding and upon its completion, regardless of whether the institution determines that research misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect or restore the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding.⁷³ The RIO will determine, after consulting with the complainant, witnesses, or committee members, as necessary, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any necessary steps.
- F4. Allegations Not Made in Good Faith. If a reasonable question relating to whether the complainant's allegations of research misconduct were made in good faith or whether a witness or committee member acted in good faith, the RIO will resolve the question. If the RIO determines that there was an absence of good faith, then the RIO will determine whether any administrative action should be taken.

V. REFERENCES

A. Selected federal agency research misconduct regulations:

1. Department of Health and Human Services, [42 CFR 93](#)
2. National Aeronautics and Space Administration, [14 CFR 1275](#)
3. National Science Foundation, [45 CFR 689](#)

B. Related University policies:

1. [University of California Policy for Protection of Whistleblowers](#)

⁷² 42 CFR § 93.304(k).

⁷³ 42 CFR § 93.304(l).

2. [UC Academic Personnel Manual](#)
3. [UC Faculty Code of Conduct](#)
4. Campus policy on the Use of Human Subjects: [UCSB Research Circular D.2](#)
5. [UC Policy on the Use of Animals in Research and Teaching](#)
6. [UC Policies on Conflicts of Interest](#)
7. [UC Interim Policy on Sexual Harassment and Sexual Violence](#)
8. [UC Policy on Student Conduct and Discipline](#)
9. [UC Personnel Policies for Staff Members](#)