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USM Scholarly Misconduct Policy

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SCHOLARLY MISCONDUCT

Policy Statement

All University personnel are responsible for refraining from misconduct in their scholarly, research, and creative activities.

Reason for Policy

The University of Southern Mississippi is committed to the integrity of research, scholarship, and creative activity. Misconduct in scholarship, research, or creative activity strikes at the very core of the academic enterprise and undermines public trust. Consequently, it should not be tolerated in any form. All members of the Southern Miss community — faculty, students, and staff — are expected to adhere to the highest ethical standards in their work, and the University will take all reasonable measures to ensure that scholarly misconduct does not occur.

The policy and procedures described herein are intended to define and describe The University of Southern Mississippi's expectations and responsibilities with respect to misconduct in research, scholarly, or creative activity, including the rights and responsibilities of the University, its officers, and affected parties. It is also intended to set forth the University's obligations under the Public Health Service (PHS) Policies on Research Misconduct, 42 CFR Part 93 and the Research Misconduct policies of the NSF, 45 CFR Part 689.

Who Needs to Know this Policy

This policy applies to all members of the University Community involved in research, scholarly, or creative activities under the aegis of the University: faculty members; teaching and support staff; research coordinators, technicians, and postdoctoral and other fellows; students; volunteers; agents; and contractors, sub-recipients, and their employees. They all must adhere to this policy and must cooperate with proceedings related to any allegation of misconduct. In addition, all members of the University Community are responsible for participating in the University's Research and Scholarly Integrity Assurance Program and for being well-informed of the ethical standards pertinent to their disciplines.

This policy applies to any person who, at the time of the alleged misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with the University.¹ It also applies to all those working on PHS supported biomedical or behavioral research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information; applications or proposals for PHS support for biomedical or behavioral research, research training or activities related to that research or research training; plagiarism of research records produced in the course of PHS supported research, research training, or activities related to that research or research training. This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal for PHS funds resulted in a grant, contract, cooperative agreement, or other form of PHS support.²

This policy does not apply to student misconduct in the performance of academic work. Student dishonesty is a violation of the student conduct code and allegations concerning it are to be resolved in accordance with the student code, administered by the Dean of Students. However, student work performed on sponsored projects falls within the purview of this policy, not the student conduct code. This document also does not address authorship issues or collaboration disputes, and pertains only to allegations of misconduct occurring within six years of the date the University or external sponsor received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR §93.105(b).

Website Address for this Policy

<http://www.usm.edu/institutional-policies/05-research>

I. Definitions

Allegation: A disclosure of possible misconduct either in writing or verbally to a University official, such as the RIO, or through the University's misconduct reporting hotline.

Assessment: The first step in the process of evaluating an allegation, aimed at determining both whether the alleged activity falls within the University's definition of scholarly misconduct and whether the allegation is sufficiently credible and specific to warrant an inquiry.

Complainant(s): Someone who makes a good faith allegation of misconduct to the RIO, another University official, or to the external sponsor.

Deciding Official (DO): The Vice Provost for Research who makes the final determination on behalf of the University in a misconduct case and acts as the contact with sponsors. Should the Vice Provost have a conflict of interest in the case, the Provost will serve or appoint a replacement to serve in this capacity.

External Sponsor:	Any granting agency or entity outside the University that provides funds for research, scholarship, creative or service activities, or education, including both governmental and non-governmental sponsors.
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:	For complainants and witnesses, good faith means believing the truth of one's allegation or testimony provided the belief is reasonable based on the evidence available to the complainant or witness at the time. One is not acting in good faith if one acts with a careless or knowing disregard for evidence contrary to one's belief. For committee members, good faith means conscientiously fulfilling assigned duties and helping the University meet its responsibilities regarding scholarly misconduct.
Inquiry:	A preliminary evidence-gathering and fact-finding step in evaluating an allegation, after an assessment, aimed at determining whether there is sufficient evidence supporting an allegation to warrant an investigation.
Investigation:	A formal development and evaluation of a factual record, pertinent to an allegation, after an inquiry, aimed at determining whether sufficient evidence exists to find that scholarly misconduct occurred.
Plagiarism:	The appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
Research Integrity Officer (RIO):	The RIO, who is also the Director of the Office of Research Integrity (ORI), has primary responsibility for implementing the University's policies and procedures on scholarly misconduct and managing proceedings related to misconduct allegations.
Respondent(s):	The individual (or individuals) against whom the allegations are directed.
Retaliation:	Any adverse action taken or attempted action against a person based on the individual's role in proceedings relating to alleged misconduct. Individuals suspected of such retaliation will be subject to the appropriate disciplinary actions according to the policies or applicable agreements for the respective university employee groups.

- Scholarly Misconduct:** Includes, but is not limited to:
1. Research Misconduct as defined by federal policy: “fabrication, falsification or plagiarism in proposing, performing, or reviewing research or reporting research results.”³
 2. Abuse of confidentiality, including improper use of information gained by privileged access, such as information obtained through service on peer review panels and editorial boards.
 3. Violation of University regulations concerning the use of human subjects, animal subjects, and laboratory safety.
 4. Misappropriation of funds or resources, such as the misuse of research funds for personal gain.

Misconduct does not include honest errors or mere differences in judgment.

II. Rights and Responsibilities

II.A Research Integrity Officer (RIO): The Director of the Office of Research Integrity (ORI), appointed by the Vice Provost for Research. The RIO’s responsibilities include various duties related to the management of misconduct proceedings, including, but not limited to:

1. Consulting confidentially with persons considering making an allegation of scholarly misconduct;
2. Receiving allegations of scholarly misconduct;
3. If necessary, taking appropriate interim actions including, but not limited to, actions needed to protect human or animal subjects in imminent danger; sequestering evidence, as appropriate and in accordance with Sections IV.A.4 and IV.C.3 below; maintaining and securing the evidence in accordance with applicable laws, regulations and policies; and notifying the relevant sponsor of exigent circumstances, in accordance with Section III.F below;
4. Sequestering data and evidence relevant to the misconduct allegation and maintaining it securely in accordance with Sections IV.A.4 and IV.C.3 below and applicable laws and policies;
5. Taking all reasonable steps to protect the confidentiality of those involved in the misconduct proceedings, as required by 42 CFR § 93.108, 45 CFR 689, and other applicable laws and University policies;
6. Assessing alleged scholarly misconduct, as defined above and in accordance with Section IV.A.1 below;
7. Notifying the respondent and providing opportunities for him or her to review, comment on, and respond to allegations, evidence, and committee reports in accordance with Sections IV.A.3, IV.B.2, IV.C.2 and IV.D.3 below;
8. Informing respondents, complainants, and witnesses of the necessary procedural steps in the scholarly misconduct proceeding;
9. Appointing the chair and members of the inquiry and investigation committees and ensuring that those committees are properly staffed and include members with the expertise

- needed to carry out a thorough, authoritative and fair evaluation of the evidence in accordance with IV.A.5 and IV.C.4;
10. Ensuring that no person involved in the proceedings has an unresolved personal, professional, or financial conflict of interest;
 11. In cooperation with other University officials, taking all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and countering potential or actual retaliation against them by respondents or other members.
 12. Keeping the DO and others who need to know apprised of the progress of the proceedings;
 13. Notifying and making reports to HHS and NSF, as is required by 42 CFR Part 93 and 45 CFR 689, and to other external sponsors, in accordance with Sections IV.B.3.b, IV.C.2 and IV.D.3 below. The RIO will report to ORI on an annual basis any allegations, inquiries, or investigations pertaining to research supported by PHS funds.
 14. Ensuring that administrative actions taken by the University and relevant external sponsor are enforced and taking appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, and licensing boards of those actions; and
 15. Maintaining records of the proceeding and making them available to ORI in accordance with Section IV.D.6 of this policy.

II.B Complainant: The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation. Complainants have a right and responsibility to be interviewed at the inquiry and investigation stages and to be given the transcript or recording of the interviews for correction.⁴

II.C Respondent: The respondent is responsible for maintaining confidentiality and cooperating with the misconduct proceedings. He or she is entitled to:

1. A good faith effort by the RIO to be notified in writing at the time of or before beginning an inquiry;⁵
2. An opportunity to comment on the inquiry report and have his or her comments attached to the report;⁶
3. Notification of the outcome of the inquiry and a copy of the inquiry report that includes a copy of, or refers to, the appropriate external sponsor regulations and the University policies and procedures on scholarly misconduct;⁷
4. Notification in writing of the allegations to be investigated within 30 days of an inquiry panel's conclusion 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;⁸
5. Be interviewed during the investigation, with the opportunity to correct the recording or transcript, and to have the corrected recording or transcript included in the record of the investigation;⁹
6. Have any witness who has been reasonably identified by the respondent as having information relevant to the investigation interviewed during the investigation, to have the recording or transcript provided to the witness for correction, and to have the corrected recording or transcript included in the record of investigation;¹⁰ and

7. Receive a copy of the draft investigation report and, concurrently, a copy of, or supervised access to the evidence on which the report is based, and to be notified that any comments must be submitted within 30 days of the date on which the copy was received and that the comments will be considered by the University and addressed in the final report.¹¹

The respondent will be given the opportunity to admit that scholarly misconduct occurred and that he or she committed the misconduct. With the advice of the RIO and other university officials, the DO may terminate the University's review of an allegation that has been admitted, provided that the President and the external sponsor approve of the University's acceptance of the admission and any proposed settlement.¹²

II.D Deciding Official

The DO will receive the inquiry report, and after consulting with the RIO and other University officials, the DO is responsible for deciding whether an investigation is warranted and for documenting the decision and the reasons for it in writing. An investigation is warranted if the inquiry establishes a reasonable basis for concluding that the allegation falls within the definition of scholarly misconduct and the inquiry indicates that the allegation may have substance.

When the investigation is warranted and the alleged misconduct occurred on a PHS-funded project, the DO is responsible for informing ORI of the decision to investigate, together with a copy of the inquiry report, thus meeting the requirements of 42 CFR § 93.309, or other external sponsor regulations within 30 days of the finding. If it is found that an investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the inquiry is retained for at least seven years after termination of the inquiry and that these documents are available to external sponsors by request.¹³

The DO will receive the investigation report and, after consulting with the RIO and other University officials, decide the extent to which the University accepts the findings of the investigation and recommend to the President what, if any, institutional administrative actions are appropriate. The DO will ensure that the final investigation report, the findings of the DO and a description of any pending or completed administrative actions executed by the President are provided to the relevant external sponsor.

III. General Policy and Principles

III.A Responsibility to Report Misconduct

All of those engaged in research, scholarly, or creative activities under the aegis of the University are responsible for reporting observed, suspected, or apparent scholarly misconduct to the RIO. Individuals merely considering making an allegation are encouraged to contact the RIO to discuss the suspected misconduct informally, which may include discussing it anonymously or hypothetically. (The RIO's contact information can be found on the University's Office of Research Integrity web page.) If the circumstances described do not meet the definition of scholarly misconduct above, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, University faculty, staff and students may have confidential discussions and consultations about possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.

III.B Cooperation with Scholarly Misconduct Proceedings

All of those engaged in research, scholarly, or creative activities under the aegis of the University are responsible for cooperating with the RIO and other University officials in their conduct of assessments, inquiries and investigations. All persons covered by this policy, including respondents, have an obligation to provide evidence relevant to misconduct allegations to the RIO or other university officials.

III.C Confidentiality

The University will comply with the requirements of relevant sponsoring agencies that specify, as a contractual condition of funding, that the University must provide notice of any alleged acts of misconduct. Otherwise, all complaints, inquiries, and administrative proceedings involving alleged scholarly misconduct are to remain confidential to the maximum extent possible.

The RIO shall, (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 scholarly misconduct proceeding; 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 misconduct proceeding. At no point during the proceedings may the names of complainants be disclosed to the respondents.

The University may provide confidentiality for witnesses when the circumstances indicate that the witnesses may be harassed or otherwise need protection.

III.D Protecting Complainants, Witnesses, and Committee Members

No one engaged in research, scholarly, or creative activities under the aegis of the University may retaliate in any way against complainants, witnesses, or committee members. Any alleged or apparent retaliation against these persons should be reported to the RIO, who will review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed. Under no circumstances, and at no time during the proceedings, may the names of complainants be disclosed to the respondents.

III.E Protecting the Respondent

As requested and as appropriate, the RIO and other University officials will make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in scholarly misconduct, but against whom no finding of misconduct is made.¹⁴

During the misconduct proceedings, the RIO is responsible for ensuring that respondents receive all the notices and opportunities provided for in the relevant sponsor policies as well as the policies and procedures of the University. Respondents may consult with legal counsel or a personal adviser (other than a principal or witness in the case) to seek advice and may bring the counsel or adviser to interviews or meetings on the case but in an advisory capacity only.

III.F Interim Administrative Actions and Notifying External Sponsor of Special Circumstances

Throughout the scholarly misconduct proceedings, the RIO will review the situation to determine if there is any threat of harm to public health, funds and equipment, or the integrity of the research process. In the event of such a threat, the RIO will, in consultation with other University officials and external sponsors, take appropriate interim action to protect against any such threat.¹⁵ Interim action might include additional monitoring of the research process and the handling of funds and equipment, reassignment of personnel or of the responsibility for the handling of funds and equipment, additional review of research data and results or delaying publication. If, at any time during a misconduct proceeding, the RIO has reason to believe that any of the following conditions exist, the RIO must notify the DO and relevant external sponsor immediately:

1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
2. Sponsoring agencies' resources or interests are threatened;
3. Research activities should be suspended;
4. There is a reasonable indication of possible violations of civil or criminal law;
5. Federal action is required to protect the interests of those involved in the misconduct proceeding;
6. The misconduct proceeding may be made public prematurely and extramural action may be necessary to safeguard evidence and protect the rights of those involved; or
7. The research or scholarly community or public should be informed.¹⁶

III.G Evidentiary Standards

The University bears the burden of proof in determining whether or not scholarly misconduct has taken place according to the preponderance of the evidence. If a respondent is judged to have intentionally, knowingly, or recklessly either destroyed, failed to provide in a timely manner, or failed to have maintained records pertaining to the work in question, according to the preponderance of the evidence and provided that the respondent's conduct constitutes a significant departure from the accepted practices of the relevant research community, this itself will be construed as evidence of misconduct.¹⁷

IV. Procedures

A. Conducting the Assessment and Inquiry

IV.A.1 Assessment of Allegations

Upon receiving an allegation of scholarly misconduct, the RIO will immediately assess the allegation to determine whether the allegation falls within the definition of scholarly misconduct above and whether it is sufficiently credible and specific so that potential evidence of misconduct may be identified. An inquiry must be conducted if these criteria are met.¹⁸

In some instances, an allegation of misconduct is made directly to or by the external sponsor which may conduct an independent inquiry and provide the results to the RIO. In these cases, the RIO may recommend that the DO accept the results of the sponsor's investigation and forgo a University inquiry and move directly to the investigation phase of the proceedings if warranted.

The assessment period should be brief, preferably concluded within a week. In conducting the assessment, the RIO need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of scholarly misconduct may be identified. The RIO will, on or before the date on which the respondent is notified of the allegation, obtain custody of, inventory, and sequester all research records and evidence needed to conduct the misconduct proceeding, as provided below in Section IV.A.4.

IV.A.2 Initiation and Purpose of the Inquiry

If the RIO determines that the criteria for an inquiry are met, he or she will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.¹⁹

IV.A.3 Notice to Respondent

At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, they must be notified in writing.

IV.A.4 Sequestration of Research Records or Other Evidence

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 misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the records or evidence encompass materials or equipment shared by a number of users, custody may be limited to copies of the data or evidence, so long as those copies are substantially equivalent to the evidentiary value of the originals.²⁰ Tangible research is the property of the University, or in certain cases, the property of the external sponsor. The RIO should consult with the University General Counsel or external sponsors for advice and assistance in this regard.

IV.A.5 Appointment of the Inquiry Committee

The RIO, in consultation with other University officials (the Chair of the University Research Council and University General Counsel), will appoint an inquiry committee and committee chair as soon after the initiation of the inquiry as is practical. The inquiry committee must consist of at least three individuals without unresolved personal, professional, or financial conflicts of interest with the participants in the inquiry or with their work. It should also include individuals with the appropriate academic or scientific expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry.²¹ Members of the committee may not hold appointments in the administrative unit (such as the department or school) in which any participants hold appointment.

IV.A.6 Charge to the Committee and First Meeting

The RIO will prepare a charge for the inquiry committee that:

1. Sets forth a time for completion of the inquiry;
2. Describes the allegations and any related issues identified during the allegation assessment;
3. States that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the respondent, complainant and key witnesses, to determine whether an investigation is warranted, and not to determine whether scholarly misconduct definitely occurred or who was responsible;
4. States that an investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the allegation falls within the definition of scholarly misconduct, and (2) the allegation may have substance, based on the committee's review during the inquiry.
5. Informs the inquiry committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy.

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.

IV.A.7 Inquiry Process

The inquiry committee will interview the complainant, respondent, and key witnesses and will examine relevant research records or other evidentiary materials. The meeting proceedings will be recorded and a legally suitable transcript will be produced. The inquiry committee will then evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether an investigation is warranted based on the criteria in this policy. The scope of the inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the misconduct or conducting exhaustive interviews and analyses. However, if the respondent makes a sufficient admission of misconduct, occurrence of misconduct may be determined at the inquiry stage if all relevant issues are resolved. In such cases the DO, in consultation with the

RIO, may advance the process to Section IV.D.3 below.

IV.A.8 Time for Completion

The inquiry, including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted, must be completed within 60 calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the inquiry record must include documentation of the reasons for exceeding the 60-day period. The respondent will be notified of the extension.²²

B. The Inquiry Report

IV.B.1 Elements of the Inquiry Report

A written inquiry report must be prepared that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of scholarly misconduct; (3) the external sponsor support, including, for example, grant numbers, grant applications, contracts, and publications; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent or complainant.²³

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

IV.B.2 Notification to the Respondent and Opportunity to Comment

The RIO will notify the respondent by registered mail whether the inquiry found an investigation to be warranted, include a copy of the draft inquiry report for comment within 10 days, and include a copy of or refer to the relevant external sponsor's regulations and the University's policies and procedures on scholarly misconduct.²⁴

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

IV.B.3 University Decision and Notification

a. Decision by Deciding Official

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

b. Notification to University Officials and sponsoring agencies.

Within 30 calendar days of the DO's decision that an investigation is warranted, the RIO will provide the relevant external sponsor with the DO's written decision and a copy of the inquiry

report. The RIO will also notify those University officials who need to know of the DO's decision. The RIO must provide the following information to external sponsors upon request: (i) the University policies and procedures under which the inquiry was conducted; (ii) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (iii) the charges to be considered in the investigation.²⁵

c. Documentation of Decision Not to Investigate

If the DO decides that an investigation is not warranted, the RIO will 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 external sponsor of the reasons why an investigation was not conducted. These documents must be provided to external sponsors upon request.

C. Conducting the Investigation

IV.C.1 Initiation and Purpose

The investigation must begin within 30 calendar days after the determination by the DO that an investigation is warranted.²⁶ 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 scholarly misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged misconduct involves potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice.

IV.C.2 Notifying relevant External Sponsor and Respondent

On or before the date on which the investigation begins, the RIO must: (1) notify the appropriate official of the external sponsor of the decision to begin the investigation and provide a copy of the inquiry report; and (2) notify the respondent in writing of the allegations to be investigated. The RIO must also give the respondent written notice of any new allegations of scholarly misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.²⁷

The DO must send written notification to the University President, the Provost, the college dean of the academic unit of the respondent, the chair or director of the respondent's academic unit, complainants, and respondents that a formal investigation has been initiated.

IV.C.3 Sequestration of Research Records or Evidence

The RIO will, prior to notifying respondent of the allegations, 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 misconduct investigation that were not previously sequestered during the inquiry. The need for additional sequestration of records may occur for any number of reasons,

including the University'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.²⁸

IV.C.4 Appointment of the Investigation Committee

The RIO, in consultation with other University officials (including Chair of the University Research Council and the University General Counsel), will appoint an investigation committee and the committee chair as soon as is practical after the decision to initiate an investigation is made. The investigation committee must consist of at least five 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 expertise needed to properly evaluate the evidence and issues related to the allegation, interview the respondent and complainant and conduct the investigation. Membership on Boards of Investigation is governed by the same guidelines that govern Boards of Inquiry. 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. The respondent will be informed in writing of the composition of the committee, and if the respondent objects to the composition of the committee in writing, the RIO, Chair of the University Research Council and University General Counsel will consider the appeal.

IV.C.5 Charge to the Committee and the First Meeting

a. Charges to the Committee

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

- i. Describes the allegations and related issues identified during the inquiry;
- ii. Identifies the respondent;
- iii. Informs the committee that it must conduct the investigation as prescribed below in 6 of this Section;
- iv. Defines scholarly misconduct;
- v. Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, scholarly misconduct occurred and, if so, the type and extent of it and who was responsible;
- vi. Informs the committee that in order to determine that the respondent committed scholarly misconduct it must find that a preponderance of the evidence establishes that: (a) scholarly misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of judgment); (b) the scholarly misconduct is a significant departure from accepted practices of the relevant academic community; and (c) the respondent committed the scholarly misconduct intentionally, knowingly, or recklessly; and
- vii. Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and relevant external sponsor

regulations.

b. First Meeting

The RIO will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this statement of policy and procedures and any relevant state or federal regulations. The RIO will be present or available throughout the investigation to advise the committee as needed.

IV.C.6 Investigation Process

The investigation committee and the RIO must:

- i. 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;²⁹
- ii. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;³⁰
- iii. 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 each interview, provide the recording to the interviewee for correction, and include the recording in the record of the investigation;³¹ and
- iv. Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible scholarly misconduct, and continue the investigation to completion.³²

IV.C.7 Time for Completion

The investigation is to be completed within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment and when appropriate sending the final report to the external sponsor. However, if the RIO determines that the investigation will not be completed within this 120-day period, he or she will submit to the external sponsor a written request for an extension, setting forth the reasons for the delay.³³

D. The Investigation Report

IV.D.1 Elements of the Investigation Report

The investigation committee and the RIO are responsible for preparing a written draft report of the investigation that:

1. Describes the nature of the allegation of scholarly misconduct, including identification of the respondent; the respondent's C.V. or resume may be included as part of the identification.

2. Describes and documents the external support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications;
3. Describes the specific allegations of scholarly misconduct considered in the investigation;
4. Includes the University policies and procedures under which the investigation was conducted, unless those policies and procedures were provided previously to the external sponsor;
5. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
6. Includes a statement of findings for every allegation of scholarly misconduct identified during the investigation.³⁴ Each statement of findings must: (1) state whether the misconduct was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by a preponderance of the evidence that he or she did not engage in scholarly misconduct because of honest error or difference of opinion; (3) identify the specific external support, if any; (4) identify whether any publications or scholarly works need correction or retraction; (5) identify the person(s) responsible for the misconduct; (6) list any current support or known applications or proposals for support that the respondent has pending with external sponsors;³⁵ and (7) when research misconduct (as defined above in Section I) is involved, the finding must specify whether the research misconduct was falsification, fabrication, or plagiarism.
7. Includes all recordings made for both the inquiry and investigation.

IV.D.2 Comments on the Draft Report and Access to Evidence

a. Respondent

The RIO must give the respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed 30 days from the date he or she received the draft report to submit comments to the RIO. The respondent's comments must be included and considered in the final report.³⁶

b. Complainant

The University will provide the complainant a copy of the draft investigation report, or relevant portions of it, for comment. The complainant's comments must be included and considered in the final report, provided they are submitted within 30 days of the date on which he or she received the draft report and the comments.

c. Confidentiality

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

IV.D.3 University Decision and Notification

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

When a final decision on the case has been reached, the RIO will normally notify both the respondent and the complainant in writing. After informing the external sponsor, if necessary, the DO will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified or plagiarized reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

The DO must provide written notification of the final determination of the University to complainants, respondents, all other parties to investigations, and to sponsoring external agencies, if any. Letters of notification must be sent by first class mail. The DO will also inform respondents of what University sanctions, if any, are to be imposed.

IV.D.4 University Sanctions

University sanctions are imposed exclusive of those that might result from criminal litigation or administrative actions taken by external funding agencies. Moreover, because of the wide range of circumstances that might frame cases of scholarly misconduct, there is no fixed rule governing University sanctions. Rather, the Vice Provost for Research considers the gravity of the misconduct and determines sanctions with reference to the public interest, the interests of the University, and fundamental fairness.

University sanctions against employees may include, but are not restricted to, one or more of the following:

- i. A letter of reprimand.
- ii. Probation for a designated period, with specified terms and conditions.
- iii. The suspension or termination of an active grant or project.
- iv. Restrictions on specified scholarly activities requiring permission and/or monitoring by designated supervisory personnel.
- v. A ban on specified scholarly activities, including participation in specific programs funded by specified external agencies.
- vi. Reduction in academic rank or employment classification level.
- vii. Reduction of salary.
- viii. Removal from administrative position.

- ix. Suspension from University employment for a designated period of time.
- x. Non-renewal of University employment.
- xi. University proceedings leading to dismissal from University employment.
- xii. Immediate termination of employment.
- xiii. Restitution of funds to the external sponsor as appropriate.

IV.D.5 Notice to External Sponsors of University Findings and Actions

Unless an extension has been granted, the RIO must, within the 120-day period for completing the investigation, submit the following to the relevant external sponsor: (1) a copy of the final investigation report with all attachments; (2) a statement of whether the University accepts the findings of the investigation report; (3) a statement of whether the University found misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the respondent(s).³⁷

IV.D.6 Maintaining Records for Review by Sponsoring Agencies

The RIO must maintain and provide to the relevant external sponsor upon request “records of misconduct proceedings” as that term is defined by 42 CFR § 93.317. Unless custody has been transferred to HHS or ORI has advised in writing that the records no longer need to be retained, records of misconduct proceedings must be maintained in a secure manner for 7 years after completion of the proceeding or the completion of any external proceeding involving the misconduct allegation.³⁸ The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by the relevant external sponsor to carry out its review of an allegation of scholarly misconduct or of the University’s handling of such an allegation.³⁹

E. Related Issues

IV.E.1 Premature Closing of Cases

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The RIO must notify the external sponsor in advance if there are plans to close a case at the inquiry or investigation stage on the basis that respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except: (1) closing of a case at the inquiry stage on the basis that an investigation is not warranted; or (2) a finding of no misconduct at the investigation stage, which must be reported to the external sponsor, as prescribed in this policy and 42 CFR § 93.315.

IV.E.2 Termination or Resignation Prior to Completing Inquiry or Investigation

The termination of the respondent's University employment, by resignation or otherwise, before or after an allegation of possible scholarly misconduct, will not preclude or terminate the misconduct proceeding or otherwise limit any of the University’s responsibilities.

If the respondent, without admitting to the misconduct, elects to resign his or her position after

the University receives an allegation of scholarly misconduct, the assessment of the allegation, inquiry and investigation will proceed 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.

IV.E.3 Restoration of the Respondent's Reputation

Following a final finding of no scholarly misconduct, including concurrence by the external sponsor if required, the RIO must, at the request of the respondent, undertake all reasonable and practical efforts to restore the respondent's reputation. Depending on the particular circumstances and the views of the respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of misconduct was previously publicized, and expunging all reference to the misconduct allegation from the respondent's personnel file. Any University actions to restore the respondent's reputation should first be approved by the Vice Provost for Research and the President.

IV.E.4 Protection of the Complainant, Witnesses and Committee Members

During the misconduct proceeding and upon its completion, regardless of whether the University or any external body determines that scholarly misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of scholarly misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the misconduct proceeding. The DO will determine, after consulting with the RIO, and with the complainant, witnesses, or committee members, respectively, 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 steps the DO approves.

IV.E.5 Allegations Not Made in Good Faith

If relevant, the DO will determine whether the complainant, witness or committee member acted in good faith. If the DO finds an absence of good faith he or she will determine whether any administrative action should be taken against the person who failed to act in good faith.

IV.E.6 Integrity Assurance Program

In keeping with The University of Southern Mississippi's commitment to the integrity of research, scholarship, and creative activity, Southern Miss sponsors a Research and Scholarly Integrity Assurance Program. All members of the Southern Miss Community are responsible for participating in this program, for remaining well-informed as to the ethical standards pertinent to their disciplines and the University's policy on Scholarly Misconduct, and for helping to prevent scholarly misconduct at Southern Miss. The program features online educational modules and frequent on-campus workshops and forums. New faculty and new graduate students will be

informed of their obligatory participation in this program at their respective orientation sessions, and all members of the community will be reminded annually of their obligations to participate in the program.

Review

This policy will be reviewed every three years by the Vice Provost for Research and the Research Integrity Officer with recommendations for revision presented to the University Research Council for consideration.

Appendices

Related Information

Derived from NIH Model Policy, 5.10.12.⁴⁰

History/Revision Dates

Origination Date: August 1, 2012

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Previous Amendment(s): February 24, 1997

Next Review Date: August 1, 2015

Authorization

REVIEWED BY:

Director of Compliance

Date

Office of General Counsel

Date

APPROVED:

President

Date

¹ 42 CFR § 93.214

² 42 CFR § 93.214

³ 42 CFR § 93.103; 45 CFR § 689.1

⁴ 42 CFR § 93.310(g)

⁵ 42 CFR §§ 93.304(c), 93.307(b)

⁶ 42 CFR §§ 93.304(e), 93.307(f)

⁷ 42 CFR § 308(a)

⁸ 42 CFR § 310(c)

⁹ 42 CFR § 310(g)

¹⁰ 42 CFR § 310(g)

¹¹ 42 CFR §§ 93.304(f), 93.312(a)

¹² 42 CFR §93.316

¹³ 42 CFR §93.309(c)

¹⁴ 42 CFR §93.304(k)

¹⁵ 42 CFR §93.304(h); 45 CFR § 689.4(a.3)

¹⁶ 42 CFR §93.318

¹⁷ 42 CFR §93.106

¹⁸ 42 CFR §93.307(a)

¹⁹ 42 CFR §93.307(c)

²⁰ 42 CFR §93.305, 93.307(b)

²¹ 42 CFR §93.304(b)

²² 42 CFR §93.307(g)

²³ 42 CFR §93.309(a)

²⁴ 42 CFR §93.308(a)

²⁵ 42 CFR §93.309(a) and (b)); 45 CFR § 689.4(b.2)

²⁶ 42 CFR §93.310(a)

²⁷ 42 CFR §93.310(b) and (c)

²⁸ 42 CFR §93.310(d)

²⁹ 42 CFR §93.310(e)

³⁰ 42 CFR §93.310(f)

³¹ 42 CFR §93.310(g)

³² 42 CFR §93.310(h)

³³ 42 CFR §93.311

³⁴ 42 CFR §93.313

³⁵ 42 CFR §93.313(f)

³⁶ 42 CFR §93.312(a), 93.313(g)

³⁷ 42 CFR §93.315; 45 CFR § 689.4(b.5)

³⁸ 42 CFR §93.317(b)

³⁹ 42 CFR §93.300(g), 93.403(b) and (d)

⁴⁰ Helpful comments on previous drafts of this revision received from Paul Walters and Matthew Planchard.