

SECTION: 2.0 Academic

SUBJECT: Research Misconduct Policy

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**Background:** This policy describes LC State policy and procedures in addressing allegations of research misconduct consistent with 42 CFR Part 93.

**Point of Contact:** Vice President for Institutional Research, Planning & Effectiveness, Vice President for Academic Affairs

**Other LC State offices directly involved with implementation of this policy, or significantly affected by the policy:** Human Resource Services

**Date of approval by LC State authority:** December, 2022

**Date of State Board Approval:** N/A

**Date of Most Recent Review:** December, 2022

**Summary of Major Changes incorporated in this revision to the policy:** New policy

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## 1. Introduction

### A. Scope

- i. This policy applies to individuals at Lewis-Clark State College (LC State)<sup>1</sup> engaged in research, including sponsored research, for which there are allegations of research misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results).
  - a) This statement of policy and procedures does not apply to authorship or collaboration disputes and applies only to allegations of research misconduct that occurred within six years of the date the institution or HHS received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR § 93.105(b).
  - b) Except for research misconduct in the context of a sponsored program, allegations of research misconduct by undergraduate students where the faculty mentor was not involved shall be dealt with through the *Student Code of Conduct*.
- ii. This policy as a requirement of federal law specifically, but not exclusively, applies to research supported by or for which support has been requested from the Public Health Service of the U.S. Department of Health and Human Services.<sup>2</sup>

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<sup>1</sup> A person who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with this institution

<sup>2</sup> 42 CFR Part 93.

SECTION: 2.0 Academic

SUBJECT: Research Misconduct Policy

2. **Definitions**

- A. Terms used have the same meaning as given them in the Public Health Service Policies on Research Misconduct, 42 CFR Part 93.
- i. Allegation means any written or oral statement or other indication of possible scientific misconduct made to an LC State official.
  - ii. Complainant means a person who makes an allegation of scientific misconduct.
  - iii. Respondent means the person against whom an allegation of scientific misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.
  - iv. Conflict of interest means the real or apparent interference of one person's interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships.
  - v. Deciding Official (DO) means the LC State official who makes final determinations on allegations of scientific misconduct and any responsive institutional actions. The provost is the DO for purposes of this policy.
  - vi. Good faith allegation means an allegation made with the honest belief that scientific misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.
  - vii. Inquiry means gathering information and initial fact-finding to determine whether an allegation or apparent instance of scientific misconduct warrants an investigation.
  - viii. Investigation means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred, and if so, to determine the responsible person and the seriousness of the misconduct.
  - ix. The Office of Research Integrity (ORI) is the office within the U.S. Department of Health and Human Services (DHHS) that is responsible for the scientific misconduct and research integrity activities of the U.S. Public Health Service.
  - x. Public Health Service (PHS) regulation means the regulation establishing standards for institutional inquiries and investigations into allegations of scientific misconduct, which is set forth at 42 C.F.R. Part 50, Subpart A, entitled "Responsibility of PHS Awardee and Applicant Institutions for Dealing with and Reporting Possible Misconduct in Science."
  - xi. Research Integrity Officer (RIO) means the LC State official responsible for:
    - a) Assessing allegations of scientific misconduct and if they fall within the definition of research misconduct, are covered by 42 CFR Part 93, and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified;
    - b) Overseeing inquiries and investigations;
    - c) And other responsibilities and procedural requirements described in this policy.The Vice President for Institutional Research, Planning & Effectiveness is the Research Integrity Officer for LC State.
  - xii. Research record means any data, document, computer file or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of scientific misconduct. A research record includes, but is not limited to, grant or contract applications, whether funded or unfunded; progress and other reports; laboratory notebooks; notes; correspondence; recordings; photographs; slides; biological materials; manuscripts and publications; equipment use logs; laboratory

SECTION: 2.0 Academic

SUBJECT: Research Misconduct Policy

procurement records; animal facility records; human and animal subject protocols; and consent forms.

- xiii. Retaliation means any action that adversely affects the employment or other institutional status of an individual that is taken by LC State or an LC State employee because the individual has in good faith, made an allegation of scientific misconduct or of inadequate institutional response thereto or has cooperated in good faith with an investigation of such allegation.
- xiv. Scientific misconduct or misconduct in science means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It also means any material failure to comply with federal requirements that uniquely relate to the conduct of research. It does not include honest error or honest differences in interpretations or judgments of data.

3. **Rights and Responsibilities**

- A. The Vice President for Institutional Research, Planning & Effectiveness will serve as the RIO with primary responsibility for implementation of the institution's policies and procedures on research misconduct.
- B. The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation. As a matter of good practice, the complainant should be interviewed at the inquiry stage and given the transcript or recording of the interview for correction. The complainant must be interviewed during an investigation, and be given the transcript or recording of the interview for correction.<sup>3</sup>
- C. The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation. The respondent will be informed of the allegations when an inquiry is opened<sup>4</sup> and notified in writing<sup>5</sup> of the final determinations and resulting actions.<sup>6</sup> The respondent will also have the opportunity to be interviewed by and present evidence to the individuals conducting the inquiry and investigation<sup>7</sup>, to review the draft inquiry and investigation reports<sup>8</sup>, and to have the advice of counsel at the respondent's own expense. If the respondent is not found guilty of scientific misconduct, he or she has the right to receive institutional assistance in restoring his or her reputation as detailed in section 8.A.
- D. The provost is the DO and has the following responsibilities. The DO will receive the inquiry report and after consulting with the RIO and/or other institutional officials, decide whether an investigation is warranted under the criteria in 42 CFR § 93.307(d). Any finding that an investigation is warranted must be made in writing by the DO and must be provided to the ORI, together with a copy of the inquiry report meeting the requirements of 42 CFR § 93.309, within 30 days of the finding.<sup>9</sup> If it is found that an investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the inquiry is retained for at least 7 years after

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<sup>3</sup> 42 CFR § 93.310(g)

<sup>4</sup> 42 CFR §§ 93.304(c), 93.307(b)

<sup>5</sup> 42 CFR § 310(c)

<sup>6</sup> 42 CFR § 308(a)

<sup>7</sup> 42 CFR § 310(g)

<sup>8</sup> 42 CFR §§ 93.304(e), 93.307(f)

<sup>9</sup> The Research Integrity Officer will report to ORI as required by regulation and keep ORI apprised of any developments during the course of the inquiry or investigation that may affect current or potential DHHS funding for the individual(s) under investigation or that PHS needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.

SECTION: 2.0 Academic

SUBJECT: Research Misconduct Policy

termination of the inquiry, so that the ORI may assess the reasons why the institution decided not to conduct an investigation.<sup>10</sup>

3. **General Policies and Principles**

A. Responsibility to Report Misconduct:

All employees or individuals associated with LC State should report observed, suspected, or apparent misconduct in science to the RIO. If an individual is unsure whether a suspected incident falls within the definition of scientific misconduct, he or she may call the Vice President for Institutional Research, Planning & Effectiveness at (208) 792-2456 to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of scientific misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

B. Cooperation with Research Misconduct Proceedings:

LC State employees will cooperate with the RIO and other institutional officials in the review of allegations and the conduct of inquiries and investigations. LC State employees, including respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO or other institutional officials.

C. Confidentiality:

The RIO shall, as required by 42 CFR § 93.108: (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; 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. The RIO should use written confidentiality agreements or other mechanisms to ensure that the recipient does not make any further disclosure of identifying information.

D. Protecting complainants, witnesses, and committee members:

LC State employees may not retaliate in any way against complainants, witnesses, or committee members. LC State employees should immediately report any alleged or apparent retaliation against complainants, witnesses or committee members to the RIO, who shall review the matter with Human Resource Services, 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.

E. Protecting the Respondent:

As 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.<sup>11</sup>

F. Interim Administrative Actions and Notifying ORI of Special Circumstances:

Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal funds and equipment, or the integrity of the PHS supported research process. In the event of such a threat, the RIO may, in consultation with other institutional officials and ORI, take appropriate interim action to protect against any such threat.<sup>12</sup> Interim action might include additional monitoring of the research process and the

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<sup>10</sup> 42 CFR § 93.309(c)

<sup>11</sup> 42 CFR § 93.304(k)

<sup>12</sup> 42 CFR § 93.304(h)

SECTION: 2.0 Academic

SUBJECT: Research Misconduct Policy

handling of federal funds and equipment, reassignment of personnel or of the responsibility for the handling of federal funds and equipment, additional review of research data and results or delaying publication. The RIO shall, at any time during a research misconduct proceeding, notify ORI immediately if he/she has reason to believe that any of the following conditions exist:<sup>13</sup>

- i. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
- ii. Research activities should be suspended;
- iii. There is a reasonable indication of possible violations of civil or criminal law;
- iv. Federal action is required to protect the interests of those involved in the research misconduct proceeding;
- v. The research misconduct proceeding may be made public prematurely and HHS action may be necessary to safeguard evidence and protect the rights of those involved; or
- vi. The research community or public should be informed.<sup>14</sup>

4. **Conducting the Assessment and Inquiry**

A. Assessment of Allegations

Upon receiving an allegation of research misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified, whether it is within the jurisdictional criteria of 42 CFR § 93.102(b), and whether the allegation falls within the definition of research misconduct in 42 FR § 93.103.<sup>16</sup> An inquiry must be conducted if these criteria are met.

The assessment period should be concluded within five (5) business days. The RIO shall, on or before the date on which the respondent is notified of the allegation, obtain custody of, inventory, and sequester all research records and evidence needed to conduct the research misconduct proceeding.

B. Initiation and Purpose of Inquiry

If the RIO determines that the criteria for an inquiry are met, 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.<sup>15</sup>

C. Notice to Respondent and Sequestration of Research Records

- i. At the time of or before beginning an inquiry, the RIO will 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 as well.
- ii. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO will 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.<sup>16</sup>

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<sup>13</sup> The Research Integrity Officer will report to ORI as required by regulation and keep ORI apprised of any developments during the course of the inquiry or investigation that may affect current or potential DHHS funding for the individual(s) under investigation or that PHS needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.

<sup>14</sup> 42 CFR § 93.318

<sup>15</sup> 42 CFR § 93.307(c)

<sup>16</sup> 42 CFR §§ 93.305, 93.307(b)

SECTION: 2.0 Academic

SUBJECT: Research Misconduct Policy

D. Appointment of Inquiry Committee

The RIO, in consultation with other institutional officials as appropriate, will appoint an inquiry committee and committee chair as soon after the initiation of the inquiry as is practical. The inquiry committee will consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry.<sup>17</sup>

E. Charge to the Inquiry Committee and the First Meeting

i. The RIO will prepare a charge for the inquiry committee that describes the allegations and any related issues identified during the allegation assessment and states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence of possible scientific misconduct to warrant an investigation. The purpose is not to determine whether scientific misconduct definitely occurred or who was responsible.

ii. 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.

iii. An investigation is warranted if the committee determines:

a) There is a reasonable basis for concluding that the allegation falls within the definition of research misconduct and is within the jurisdictional criteria of 42 CFR § 93.102(b); and

b) The allegation may have substance based on the committee's review during the inquiry.

F. Inquiry Process

To maintain confidentiality, all meetings of the inquiry committee are closed to everyone whose attendance has not been specifically requested by the committee. The committee will normally interview the complainant, the respondent and key witnesses as well as examining relevant research records and materials. The inquiry committee will evaluate the evidence and testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether there is sufficient evidence of possible scientific misconduct to recommend further investigation. The scope of the inquiry does not include deciding whether misconduct occurred or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of research misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, the individual making the admission will be asked to sign a statement attesting to the occurrence and extent of misconduct. When federally funded, the RIO shall promptly consult with ORI to determine the next steps that should be taken.

G. Time for Completion

The inquiry, including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted, must be completed within 60 calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the inquiry record must include documentation of the reasons for exceeding the 60-day period.<sup>18</sup>

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<sup>17</sup> 42 CFR § 93.304(b)

<sup>18</sup> 42 CFR § 93.307(g)

SECTION: 2.0 Academic

SUBJECT: Research Misconduct Policy

5. **The Inquiry Report**

A. Elements of the Inquiry Report:

A written inquiry report must be prepared that includes the following information:

- i. The name and job title of the respondent
- ii. A description of the allegations of research misconduct
- iii. A summary of the inquiry process
- iv. List of evidence and research records reviewed
- v. The basis for recommending or not recommending that the allegations warrant an investigation
- vi. Any comments on the draft report by the respondent (see next section)

B. Notification to Respondent and Opportunity for Comment

The RIO will notify the respondent whether the inquiry found an investigation to be warranted and will include a copy of the draft inquiry report for respondent comment within ten (10) business days. A copy of 42 CFR Part 93 and the institution's policies and procedures on research misconduct will also be included.<sup>19</sup>

- i. The RIO may establish reasonable conditions for review to protect the confidentiality of the draft report (e.g., confidentiality agreement, review the draft report in a secure location).
- ii. Any comments that are submitted by the respondent or complainant will be attached to the final inquiry report. Based on the comments, the inquiry committee may revise the draft report as appropriate and prepare it in final form. The committee will deliver the final report to the RIO.

C. Inquiry Decision and Notification

- i. The RIO will transmit the final inquiry report and any comments to the DO (i.e., provost), who will make the determination (in writing) of whether findings from the inquiry provide sufficient evidence of possible scientific misconduct to justify conducting an investigation. The inquiry is completed when the DO makes this determination, which will be made within 60 calendar days of the first meeting of the inquiry board. Any extension of this period will be based on good cause and recorded in the inquiry file.
- ii. Within 30 calendar days of the DO's decision that an investigation is warranted, the RIO will provide ORI and granting agency with the DO's written decision and a copy of the inquiry report, when federal funds are involved. The RIO will also notify those institutional officials who need to know of the DO's decision. The RIO must provide the following information to ORI upon request:
  - a) the institutional policies and procedures under which the inquiry was conducted;
  - b) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and
  - c) the charges to be considered in the investigation.<sup>20</sup>
- iii. If the DO decides that an investigation is not warranted, the RIO shall secure and maintain for 7 years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by ORI of the reasons why an investigation was not conducted. These documents must be provided to ORI or other authorized HHS personnel upon request.

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<sup>19</sup> 42 CFR § 93.308(a)

<sup>20</sup> 42 CFR § 93.309(a) and (b)

SECTION: 2.0 Academic

SUBJECT: Research Misconduct Policy

## 6. Conducting the Investigation

### A. Purpose

The investigation must begin within 30 calendar days after the determination by the DO that an investigation is warranted.<sup>21</sup> 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.<sup>22</sup> This is particularly important where the alleged research misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. Under 42 CFR § 93.313 the findings of the investigation must be set forth in an investigation report.

### B. Sequestration of Research Records

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 research misconduct proceeding that were not previously sequestered during the inquiry. The need for additional sequestration of records for the investigation may occur for any number of reasons, including the institution's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.<sup>23</sup>

### C. Appointment of Investigation Committee

The RIO, in consultation with HRS and 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. Individuals appointed to the investigation committee may also have served on the inquiry committee.

### D. Charge to the Investigation Committee & First Meeting

- i. The RIO will define the subject matter of the investigation in a written charge to the committee that describes the allegations and related issues identified during the inquiry, defines scientific misconduct, and identifies the name of the respondent. The charge will state that the committee is to evaluate the evidence and testimony of the respondent, complainant, and key witnesses to determine whether, based on a preponderance of the evidence, scientific misconduct occurred and, if so, to what extent, who was responsible, and its seriousness. In order to determine that the respondent committed research misconduct, the committee must find that a preponderance of the evidence establishes that:

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<sup>21</sup> 42 CFR § 93.310(a)

<sup>22</sup> 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 the inquiry or in the initial notice of the investigation (42 CFR § 93.310(b) and (c)).

<sup>23</sup> 42 CFR § 93.310(d)

SECTION: 2.0 Academic

SUBJECT: Research Misconduct Policy

- a) Research misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion);
  - b) The research misconduct is a significant departure from accepted practices of the relevant research community; and
  - c) The respondent committed the research misconduct intentionally, knowingly, or recklessly.
- ii. During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the committee will notify the RIO, who will determine whether it is necessary to notify the respondent of the new subject matter or to provide notice to additional respondents.
  - iii. The RIO will convene the first meeting of the investigative 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 committee will be provided with a copy of these instructions and, where PHS funding is involved, the PHS regulation. The committee must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and 42 CFR § 93.313.

E. 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;<sup>24</sup>
- ii. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;<sup>25</sup>
- 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 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;<sup>26</sup>
- 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 research misconduct, and continue the investigation to completion;<sup>27</sup> and
- v. The investigation is to be completed within 120 calendar days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to ORI.<sup>28</sup> However, if the RIO determines that the investigation will not be completed within this 120-day period, he or she will submit to ORI a written request for an extension, setting forth the reasons for the delay. The RIO will ensure that periodic progress reports are filed with ORI, if ORI grants the request for an extension and directs the filing of such reports.<sup>29</sup>

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<sup>24</sup> 42 CFR § 93.310(e)

<sup>25</sup> 42 CFR § 93.310(f)

<sup>26</sup> 42 CFR § 93.310(g)

<sup>27</sup> 42 CFR § 93.310(h)

<sup>28</sup> The Research Integrity Officer will report to ORI as required by regulation and keep ORI apprised of any developments during the course of the inquiry or investigation that may affect current or potential DHHS funding for the individual(s) under investigation or that PHS needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.

<sup>29</sup> 42 CFR § 93.311

SECTION: 2.0 Academic

SUBJECT: Research Misconduct Policy

F. Investigation Report

The final report must describe the policies and procedures under which the investigation was conducted, describe how and from whom information relevant to the investigation was obtained, state the findings, and explain the basis for the findings. There will be a statement of findings for each allegation of research misconduct identified during the investigation.<sup>30</sup> Each statement of findings must:

- i. Identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly;
- ii. Summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by a preponderance of the evidence that he or she did not engage in research misconduct because of honest error or a difference of opinion;
- iii. Identify the specific PHS support;
- iv. Identify whether any publications need correction or retraction;
- v. Identify the person(s) responsible for the misconduct; and
- vi. List any current support or known applications or proposals for support that the respondent has pending with non-PHS federal agencies.<sup>31</sup>

G. Comments on the Draft Report and Access to Evidence

The RIO will provide the respondent with a copy of the draft investigation report for comment and rebuttal. The respondent will be allowed 14 calendar days to review and comment on the draft report. The respondent's comments will be attached to the final report. The findings of the final report should take into account the respondent's comments in addition to all the other evidence.

- i. In distributing the draft report, or portions thereof, to the respondent and complainant, the RIO will inform the recipient of the confidentiality requirements under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may request the recipient to sign a confidentiality statement or to come to his or her office to review the report.

H. Institutional Review and Decision

- i. After comments have been received and the necessary changes have been made to the draft report, the investigative committee should transmit the final report to the DO (i.e., provost) through the RIO. The DO will determine in writing:
  - a. Whether the institution accepts the investigation report, its findings, and the recommended institutional actions; and
  - b. The appropriate institutional actions in response to the accepted findings of research misconduct.
- ii. If the DO's determination varies from the findings of the investigation committee, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee.
- iii. Alternatively, the DO may return the report to the investigation committee with a request for further fact-finding or analysis.
- iv. When a final decision on the case has been reached, the RIO will notify both the respondent and the complainant in writing. The RIO is responsible for ensuring compliance with all

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<sup>30</sup> 42 CFR § 93.313

<sup>31</sup> 42 CFR § 93.313(f)

SECTION: 2.0 Academic

SUBJECT: Research Misconduct Policy

notification requirements of funding or sponsoring agencies. When federally funded, the RIO will submit the following to the ORI:

- a) A copy of the final investigation report with all attachments;
  - b) A statement of whether the institution accepts the findings of the investigation report;
  - c) A statement of whether the institution found misconduct and, if so, who committed the misconduct; and
  - d) A description of any pending or completed administrative actions against the respondent.<sup>32</sup>
- v. An investigation should ordinarily be completed within 120 calendar days of its initiation, with the initiation being defined as the first meeting of the Investigative Board. This includes conducting the investigation, preparing the report of findings, making the draft report available to the subject of the investigation for comment, submitting the report to the DO (i.e., provost) for approval, and submitting the report to the funding agency if any.
- I. **Maintaining Records for Review**  
Records of research misconduct proceedings must be maintained in a secure manner for 7 years after completion of the proceeding or the completion of any PHS proceeding involving the research misconduct allegation.<sup>33</sup> The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by ORI to carry out its review of an allegation of research misconduct or of the institution's handling of such an allegation.<sup>34</sup>

7. **Institutional Administrative Actions**

If the DO determines that research misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken, after consultation with the RIO and HRS. The administrative actions may include:

- A. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;
- B. Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or the initiation of steps leading to possible rank reduction or termination of employment;
- C. Reduction, or initiation of steps leading to possible rank reduction or termination of employment. If termination is recommended, the final decision and action shall be made by the LC State President.
- D. Any other administrative actions deemed appropriate, consistent with LC State and State of Idaho policies and procedures.

8. **Other Considerations**

- A. **Restoration of Respondent's Reputation**  
If no misconduct is found, the respondent may request reasonable efforts be taken to restore the respondent's reputation. Depending on the particular circumstances, the RIO may consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of scientific misconduct was

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<sup>32</sup> 42 CFR § 93.315

<sup>33</sup> 42 CFR § 93.317(b)

<sup>34</sup> 42 CFR §§ 93.300(g), 93.403(b) and (d)

SECTION: 2.0 Academic

SUBJECT: Research Misconduct Policy

previously publicized, or expunging all reference to the scientific misconduct allegation from the respondent's personnel file. Any LC State actions to restore the respondent's reputation must first be approved by the provost.

B. Protection of the Complainant and Others

Regardless of whether LC State determines that scientific misconduct occurred, the RIO will undertake reasonable efforts to protect complainants who made allegations of scientific misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the provost will determine what steps, if any, are needed to restore the position or reputation of the complainant. The RIO is responsible for implementing any steps the provost approves. The RIO will also take appropriate steps during the inquiry and investigation to prevent retaliation against the complainant.

C. Allegations Not Made in Good Faith

If relevant, the provost will determine whether the complainant's allegations of scientific misconduct were made in good faith. If an allegation was not made in good faith, the provost will determine whether any administrative action should be taken against the complainant.

D. Interim Administrative Actions

LC State officials will take interim administrative actions, as appropriate, to protect federal funds and ensure that the purposes of the federal financial assistance are carried out.