



MEMORANDUM

To: Donna E. Shalala, President

From: Mary Coombs
Chair, Faculty Senate *Mary Coombs*

Date: March 28, 2006

Subject: Faculty Senate Legislation #2005-13(B) – Modification of the Faculty Manual regarding Misconduct in Research Policy (Addendum to Legislation #2005-04(B) approved on 12/28/05)

The Faculty Senate, at its December 14, 2005 meeting, voted unanimously to approve the modification to the Faculty Manual pertaining to the Misconduct in Research Policy to match the newly revised federal rules. This was approved with the understanding that the policy needed clarifications and/or modifications other than those required by federal law, and that a revised policy responding to these concerns would be brought forward to the Senate. You approved that legislation on December 28, 2005.

At its March 22, 2006 meeting, the Faculty Senate voted unanimously to approve additional proposed modifications that incorporate the clarifications and modifications as noted above to be integrated with the policy as approved in December.

The additional changes to the Faculty Manual are shown as underlined additions and ~~striketrough~~ deletions in the enclosed document. For your reference, a clean version of the document that incorporates all of the changes is also enclosed.

This legislation is now forwarded to you for your action.

MC/kl

cc: Thomas LeBlanc, Executive Vice President and Provost
Norman Altman, Vice Provost for Research

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Faculty Senate Legislation #2005-13(B) – Modification of the Faculty Manual regarding Misconduct in Research Policy (Addendum to Legislation #2005-04(B) approved on 12/28/05)

PRESIDENT'S RESPONSE

APPROVED:  DATE: _____
(President's Signature)

OFFICE OR INDIVIDUAL TO IMPLEMENT: Senate Office to Update Manual

EFFECTIVE DATE OF LEGISLATION: _____
(if other than June 1 next following)

NOT APPROVED AND REFERRED TO: _____

REMARKS (IF NOT APPROVED): _____

1 [a clean version of the proposed modifications is includes at the end of this document]
2

3 **POLICIES AND PROCEDURES OF THE UNIVERSITY OF MIAMI**
4 **RELATING TO ALLEGATIONS OF MISCONDUCT IN RESEARCH**

5
6 Research in an institution such as the University of Miami is grounded upon the principles of
7 academic freedom and mutual trust. The fostering of inquiry and creativity requires an atmosphere in
8 which all are presumed to adhere to high ethical standards in the conduct of research and other
9 academic pursuits. Misconduct in research is a fundamental violation of this trust and represents an
10 assault upon the integrity of the University community.

11
12 Acts of misconduct are fortunately rare events, but because of the seriousness of such allegations of
13 misconduct and the special responsibilities of the University in such circumstances, both to individual
14 researchers and to society, it is recognized that explicit procedures must be provided for dealing with
15 instances of alleged misconduct. It is the purpose of this document to outline the policies and
16 procedures that will be followed in the investigation and reporting of allegations of research
17 misconduct at the University of Miami.

18
19 In establishing these procedures, however, it must be emphasized that the best mechanism for dealing
20 with misconduct is to prevent it. Thus it is imperative that those who participate in research reaffirm
21 their responsibility for the ethical conduct of all research activities with which they are associated.
22 Principal investigators, laboratory supervisors and others who lead research must recognize their
23 ultimate responsibility for the authenticity of research conducted and published in their names and
24 realize that they must provide adequate supervision for their trainees and research teams. It is also
25 their responsibility to see that all persons who have contributed to the research receive appropriate
26 credit for their work. It is incumbent upon collaborators and other contributors to research to
27 understand that the inclusion of their names as co-authors of publications reflects a genuine
28 contribution to the work, and signifies that they have approved the publication and are prepared to
29 accept responsibility for the work reported.

30
31 In order to respond to allegations regarding the integrity of any published report, adequate records of
32 the original protocols and research records, including all raw data, must be preserved for at least
33 seven years (or longer if required by the funding agency), so they can be made available for
34 inspection.

35
36 This policy is applicable to research misconduct arising from research conducted at the University,
37 and/or conducted by University faculty and employees, including misconduct involving: (1)
38 Applications or proposals for support for extramural or intramural research, research training or
39 activities related to that research or research training, such as the operation of tissue and data banks
40 and the dissemination of research information; (2) Supported extramural or intramural research; (3)
41 Supported extramural or intramural research training programs; (4) Supported extramural or
42 intramural activities that are related to research or research training, such as the operation of tissue
43 and data banks or the dissemination of research information; and (5) Plagiarism of research records

1 produced in the course of supported research, research training or activities related to that research or
2 research training. This includes any research proposed, performed, reviewed, or reported or any
3 research record generated from that research, regardless of whether an application or proposal for
4 funds resulted in a grant, contract, cooperative agreement, or other form of extramural or intramural
5 support

6
7 This policy applies only to research misconduct occurring within six years of the date the
8 University receives an allegation of research misconduct, unless (1) the respondent continues or
9 renews any incident of alleged research misconduct that occurred before the six-year limitation
10 through the citation, republication or other use, for the potential benefit of the respondent, of the
11 research record that is alleged to have been fabricated, falsified, or plagiarized, or (2) the
12 ~~institution~~University, following consultation with the Office of Research Integrity (hereinafter
13 "ORI"), determines that the alleged misconduct, if it occurred, would possibly have a substantial
14 adverse effect on the health or safety of the public. In the event the alleged misconduct occurred
15 outside the time limit described above, the matter should be referred to the Committee on
16 Professional Conduct.

17 18 19 20 **Definitions**

21
22 Research means a systematic experiment, study, evaluation, demonstration or survey designed to
23 develop or contribute to general knowledge (basic research) or specific knowledge (applied research).
24 Research, as used herein, includes all basic, and applied, and demonstration research in all fields of
25 ~~science, engineering, mathematics and other disciplines.~~ This includes, but is not limited to, research in
26 economics, education, the humanities, linguistics, medicine, nursing, psychology, the natural and
27 social sciences, engineering, mathematics and statistics, and includes any research involving
28 human subjects or animals.

29
30 Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or
31 reviewing research, or in reporting research results. Fabrication is making up data or results and
32 recording or reporting them. Falsification is manipulating research materials, equipment, or
33 processes, or changing or omitting data or results such that the research is not accurately represented
34 in the research record. Plagiarism is the appropriation of another person's ideas, processes, results, or
35 words without giving appropriate credit. Plagiarism may also include self-plagiarism. Self-
36 plagiarism refers to the author's re-use of their earlier work and passing it off as new or original
37 material. Research misconduct does not include honest error or honest differences of opinion.

38
39 Research record means the record of data or results that embody the facts resulting from scientific
40 inquiry, including but not limited to, research proposals, laboratory records, both physical and
41 electronic, progress reports, abstracts, theses, oral presentations, chapters, books, audio or video,
42 tapes, ~~CDs~~CDs, internal reports, journal articles, and any documents and materials provided to
43 ~~institution or an institutional~~the University or to a University official by a respondent in the course of the
44 research misconduct proceeding.

1
2 Research involving PHS support means: (i) Applications or proposals for PHS support for biomedical or behavioral
3 extramural or intramural research, research training or activities related to that research or research training, such as the
4 operation of tissue and data banks and the dissemination of research information; (ii) PHS supported biomedical or
5 behavior extramural or intramural research; (iii) PHS supported biomedical or behavioral extramural or intramural
6 research training programs; (iv) PHS supported extramural or intramural activities that are related to biomedical or
7 behavioral research or research training, such as the operation of tissue and data banks or the dissemination of research
8 information; and (v) Plagiarism of research records produced in the course of PHS supported research, research training or
9 activities related to that research or research training. This includes any research proposed, performed, reviewed, or
10 reported or any research record generated from that research, regardless of whether an application or proposal for PHS
11 funds resulted in a grant, contract, cooperative agreement, or other form of PHS support. Research support means
12 funding, or applications or proposals, for research, research training, or activities related to that
13 research or training, that may be provided through: (1) funding for intramural or extramural research
14 by grants, cooperative agreements, or contracts; or (2) subgrants or subcontracts under those funding
15 instruments; or (3) salary or other payments under those grants, cooperative agreements, or contracts.
16

17 Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in
18 reporting research results. Fabrication is making up data or results and recording or reporting them. Falsification is
19 manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is
20 not accurately represented in the research record. Plagiarism is the appropriation of another person's ideas, processes,
21 results, or words without giving appropriate credit. Plagiarism may also include self-plagiarism. Research misconduct
22 does not include honest error or honest differences of opinion.
23

24 The Committee to Investigate Misconduct in Research

25
26 The Committee to Investigate Misconduct in Research (hereinafter referred to as the Committee) is
27 charged with the responsibility of investigating allegations of research misconduct by members of the
28 academic community of the University of Miami. It is the Committee's responsibility to determine if
29 allegations of research misconduct can be substantiated, to ~~insure~~ ensure that the relevant authorities
30 are informed of the existence and progress of any formal investigations, to make a final report on the
31 findings of investigations, and to recommend appropriate action to the dean of the ~~school~~ School or
32 ~~college~~ College and to the Provost.
33

34 The Committee shall be drawn from a standing body (the "pool") consisting of ~~six~~ twenty-one tenured
35 members of the faculty appointed by the Provost. There shall be at least ~~one member~~ three members
36 from each of the three major campuses represented in the pool. Membership terms in the pool are for
37 ~~non-renewable three year terms~~ years and shall be staggered ~~such that there are two new members each academic~~
38 year. Members whose terms are ending while a specific matter is under consideration shall continue
39 to serve for the duration of that matter. ~~The Assistant Provost for Research Standards shall be an ex-officio~~
40 ~~member of the committee. The members of the committee~~ The Vice Provost for Research shall select six
41 members from that twenty-one member pool to serve as the Committee for each investigation.
42 Members of a Committee shall continue to serve for the duration of that matter. The Assistant Provost
43 for Research Standards shall be a non-voting ex-officio member of the Committee. The members of
44 the Committee will elect a chair to conduct the proceedings. Additional ad hoc members of the
45 Committee with special expertise in the area of investigation may be appointed to the Committee
46 from within or outside the full-time faculty of the ~~school~~ University at the request of the Committee or

1 by the Vice Provost for Research. Only those ad hoc members who are full-time University faculty
2 may vote. In accordance with federal law, reasonable steps shall be taken to ensure an impartial and
3 unbiased investigation to the maximum extent practicable, including participation of persons with
4 appropriate scientific expertise who do not have unresolved personal, professional, or financial
5 conflicts of interest with those involved with the inquiry or investigation. Members of the Committee
6 whose participation in the investigation of allegations against a specific individual could be construed
7 as inappropriate or who are involved in the research in question will be expected to recuse themselves
8 from such proceedings; ~~in.~~ In case of doubt, the Vice Provost for Research, or the Committee, by
9 majority vote, may require a member to recuse himself or herself. ~~Reasonable steps shall be taken to ensure~~
10 ~~an impartial and unbiased investigation to the maximum extent practicable, including participation of persons with~~
11 ~~appropriate scientific expertise who do not have unresolved personal, professional, or financial conflicts of interest with~~
12 ~~those involved with the inquiry or investigation. § 93.310(f)~~

13
14 In the event the Vice Provost for Research has a conflict of interest related to an allegation, he or she
15 will recuse himself or herself. The Provost will appoint an appropriate individual to act for the Vice
16 Provost for Research under these circumstances.

17 18 Procedures for the Investigation of Alleged Misconduct

19
20 The goal of the procedures is to investigate and resolve allegations of research misconduct in an
21 expeditious, responsible and fair manner. The responsibility of protecting the rights and reputations
22 of all who are involved in any investigation of research misconduct is recognized as ~~an~~ very important
23 ~~one.~~ For this reason, disclosure of the identity of respondents and complainants in research
24 misconduct proceedings shall be limited, to the extent possible, to those who need to know, consistent
25 with a thorough, competent, objective and fair research misconduct proceeding, and as required or
26 allowed by law statute or required by regulation. The University shall protect, to the extent possible, the
27 privacy of those who in good faith report apparent research misconduct and shall undertake all
28 reasonable and practical efforts to protect the positions and reputations of any complainant, witness,
29 ~~or committee~~ Committee member and to ~~counterprevent~~ prevent potential or actual retaliation against these
30 complainants, witnesses, and ~~committee~~ Committee members. Individuals responsible for carrying out
31 any part of the research misconduct proceeding must not have unresolved personal, professional or
32 financial conflicts of interest with the complainant, respondent or witnesses. The University and
33 Committee shall afford the respondents, complainants and research subjects identifiable from
34 research records or evidence confidential treatment to the extent possible. Persons accused of
35 misconduct may consult with legal counsel, but legal counsel for neither the accused nor for the
36 University may participate in any hearing or interview.

37 38 Steps in an investigation

- 39
40 1. **Allegation** – Allegation means a disclosure of possible research misconduct through any
41 means of communication. The disclosure may be by written or oral statement or other
42 communication to an institutional official. Allegations of misconduct should normally be
43 ~~reported~~ directed to the Vice Provost for Research or designee, who shall determine if an
44 inquiry is warranted. Others who receive an allegation of misconduct should immediately

1 forward it to the Vice Provost for Research.

2
3 **2.** An inquiry is warranted if the Vice Provost for Research determines that the allegation (1)
4 Falls~~falls~~ within the definition of research misconduct and (2) is sufficiently credible and
5 specific so that potential evidence of possible research misconduct may be identified.
6

7 **3.** **Inquiry** - An inquiry is an information gathering and initial fact finding process to determine
8 if a formal investigation of misconduct should be undertaken. An inquiry will be conducted
9 by an Inquiry Panel, made up of three tenured faculty ~~members~~~~at large~~members chosen by the
10 Vice Provost for Research from the pool. Members who serve on the Inquiry Panel may not
11 serve on the Investigation Committee for the same matter. The Assistant Provost for
12 Research Standards shall be ~~an~~ non-voting ex-officio member of the Inquiry Panel. At the
13 time of or before beginning an inquiry, the ~~Inquiry Panel~~Vice Provost for Research must make a
14 good faith effort to notify in writing the presumed respondent. If the Inquiry Panel
15 subsequently identifies additional respondents, the ~~University must~~Inquiry Panel will notify the
16 Vice Provost for Research who in turn will notify them as well in writing.
17

18 To the extent it has not already done so at the allegation stage, the University must, on or
19 before the date on which the respondent is notified or inquiry begins, whichever is earlier,
20 promptly take all reasonable and practical steps to (1) obtain custody of all the research
21 records and evidence needed to conduct the research misconduct proceeding, (2) inventory
22 the records and evidence, and (3) sequester them in a secure manner, except that, where the
23 research records or evidence encompass scientific instruments shared by a number of users,
24 custody may be limited to copies of the data or evidence on such instruments, so long as those
25 copies are substantially equivalent in evidentiary value to the original data or evidence on the
26 instruments. The University shall, where appropriate, give the respondent copies of, or
27 reasonable, supervised access to, the research record. The University shall undertake all
28 reasonable and practical efforts to take custody of additional research records or evidence that
29 is discovered during the course of a research misconduct proceeding.
30

31 An inquiry must be completed within 60 calendar days of its initiation unless circumstances
32 clearly warrant a longer period. A draft written report shall be prepared that states what
33 evidence was reviewed, summarizes relevant interviews, and includes the conclusions of the
34 ~~inquiry~~Inquiry Panel as to whether an investigation is warranted. An investigation is warranted
35 if there is (1) a reasonable basis for concluding that the allegation falls within the definition of
36 research misconduct and (2) preliminary information-gathering and preliminary fact-finding
37 from the inquiry indicates that the allegation may have substance.
38

39 The individual(s) against whom the allegations were made shall be given a copy of the draft
40 ~~report of inquiry~~. If they wish to comment on that report, their comments must be submitted in
41 writing to the Inquiry Panel within 14 calendar days of the date on which the individual(s)
42 received the draft report and will be made part of the record. If the inquiry takes longer than
43 60 days to complete, the record of the inquiry shall include documentation of the reasons for
44 exceeding the 60-day period.

1
2 The final report of the Inquiry Panel, including any comments received from the individual(s)
3 against whom the allegations were made, shall be sent to the Vice Provost for Research.
4

5 ~~An investigation is warranted if there is (1) A reasonable basis for concluding that the allegation falls within the~~
6 ~~definition of research misconduct and (2) Preliminary information-gathering and preliminary fact-finding from~~
7 ~~the inquiry indicates that the allegation may have substance.~~
8

9 The reasons for the decision whether an investigation is warranted should be documented in
10 the written ~~that~~ report of the Inquiry Panel.
11

12 The Vice Provost for Research shall maintain sufficiently detailed documentation of inquiries
13 to permit a later assessment of the reason for ~~determining that an investigation was not~~
14 warranted. decision. Such records shall be maintained in a secure manner for a period of at least
15 seven years after the termination of the inquiry, and shall, upon request, be provided to
16 authorized federal agency personnel as may be required by law.
17

18 Within 30 days of finding that an investigation regarding research involving federal agency
19 support is warranted, the University shall provide ORI with the written findings and a copy of
20 the inquiry report of the Inquiry Panel which ~~includes~~ shall include the following information:-
21 (1) The name and position of the respondent; (2) A description of the allegations of research
22 misconduct; (3) The federal agency support, including for example, grant numbers, grant
23 applications, contracts, and publications listing federal agency support; (4) The basis for
24 recommending that the alleged actions warrant an investigation; and (5) Any comments on
25 the report by the respondent ~~or the complainant~~. The University shall provide the following
26 information to ORI upon request:- (1) The institutional policies and procedures under which
27 the inquiry was conducted; (2) The research records and evidence reviewed, transcripts or
28 recordings of any interviews, and copies of all relevant documents; and (3) The charges for
29 the investigation to consider.
30

- 31 **4. Formal investigation of misconduct** - If findings from the inquiry provide a ~~sufficient~~
32 ~~basis for~~ conducting an investigation by the Committee, the Vice Provost for Research
33 will initiate an investigation within 30 days ~~of the completion of the inquiry.~~ following receipt
34 of the Inquiry Panel report. An investigation means the formal development of a factual
35 record and the examination of that record leading to a decision either ~~not~~ to make a finding
36 ~~of that~~ research misconduct was not shown or to recommend a finding of research
37 misconduct; the latter finding may include a recommendation for ~~other~~ appropriate actions,
38 including administrative actions. ~~The accused Vice Provost for Research will inform the~~
39 respondent and any collaborators ~~will be informed~~ promptly, in writing, of the allegations, of
40 the decision to initiate a formal investigation, and of the procedures that will be followed.
41 The Committee shall give the respondent and the Vice Provost for Research written notice
42 of any new allegations of research misconduct within a reasonable amount of time ~~of~~ after
43 deciding to pursue any such ~~new~~ allegations not addressed during the inquiry or included in
44 the initial notice of investigation.
45

1 _____ The Committee is empowered to call for and examine all relevant documentation,
2 including, but not limited to, research data and proposals, laboratory notebooks, grant
3 applications, publications, correspondence, memoranda of telephone calls and computer
4 data, files and programs. These materials may relate to any research with which the
5 accused is involved. To the extent the University has not already done so at the allegation
6 or inquiry stages, the Committee shall take all reasonable and practical steps to (1) obtain
7 custody of all the research records and evidence needed to conduct the research
8 misconduct proceeding, (2) inventory the records and evidence, and (3) sequester them in a
9 secure manner, except that, where the research records or evidence encompass scientific
10 instruments shared by a number of users, custody may be limited to copies of the data or
11 evidence on such instruments, so long as those copies are substantially equivalent in
12 evidentiary value to the data or evidence on the instruments. Whenever possible, the
13 University shall take custody of the records (1) before or at the time the Committee Vice
14 Provost for Research notifies the respondent; and (2) promptly thereafter, whenever
15 additional items become known or relevant to the investigation. The University shall,
16 where appropriate, give the respondent copies of, or reasonable, supervised access to, the
17 research record.
18

19 _____ A first round of hearings will be conducted in which those who have brought the charges,
20 those alleged to have committed research misconduct, and any others who might have
21 knowledge relevant to the alleged misconduct will be interviewed individually in closed-
22 door sessions. A transcription or recording of these interviews shall be prepared and given
23 to each interviewed party for comment or revision, and included as part of the
24 investigatory file. ~~The Committee shall consider and address any comments of the respondent and~~
25 ~~complainant before issuing a final report.~~ Comments by any interviewed party or the accused
26 must be made within 30 days of receipt of the transcription or recording. The Committee
27 shall consider and address any comments of the interviewed parties and the respondent
28 before issuing a final report. The Committee shall use diligent efforts to ensure that the
29 investigation is thorough and sufficiently documented and includes examination of all
30 research, records and evidence relevant to reaching a decision on the merits of the
31 allegations. The Committee shall pursue diligently all significant issues and leads
32 discovered that are determined relevant to the investigation, including any evidence of
33 additional instances of possible research misconduct, and continue the investigation to
34 completion.
35

36 At the conclusion of these hearings, the Committee will review the evidence and apprise all
37 those who may bear some responsibility for the alleged misconduct of the results of the
38 investigation to that point. These individuals will then be granted the right of rebuttal and the
39 opportunity to present additional evidence to the Committee. Following this, the Committee
40 may recall earlier witnesses for re-examination, call new witnesses, or close the investigative
41 phase. In any case, before the Committee moves toward final deliberations, those bearing
42 potential responsibility will always be given an opportunity to review and comment upon any
43 new evidence uncovered subsequent to their last appearance before the Committee.
44

1 The Committee must complete within 120 days all aspects of investigation ~~within 120 days of~~
2 ~~beginning it~~, including conducting the investigation, preparing the report of findings,
3 providing the draft report for comment and sending the final report to the appropriate
4 University officials in order that the final report can be submitted to ORI where required.
5 If unable to complete the investigation in 120 days, the ~~University~~ Committee must provide
6 the reasons for the delay to the Vice Provost for Research who must ask ORI for an
7 extension in writing, where required.
8

9 Committee Report and Recommendations

10
11 The Committee will evaluate all evidence and testimony in order to determine if the allegations of
12 misconduct are substantiated and, if so, who must bear responsibility. Because of the negative impact
13 of charges of misconduct, whether ultimately substantiated or not, on the research career of an
14 individual, it is important that the Committee's final decision be rendered in clear terms. ~~The University~~
15 ~~has the burden of proof to make a finding of research misconduct.~~ The destruction, absence of, or respondent's
16 failure to provide research records adequately documenting the questioned research is evidence of
17 research misconduct where the University establishes by a preponderance of the evidence that the
18 respondent had research records and intentionally, knowingly, or recklessly had research records and
19 failed to produce them in a timely manner and that the respondent's conduct constitutes a significant
20 departure from accepted practices of the relevant research community. ~~The respondent has the burden of~~
21 ~~going forward with and the burden of proving, by a preponderance of the evidence, any and all affirmative defenses raised.~~
22 In determining whether the University has carried the burden of proof imposed by this part, the
23 Committee shall give due consideration to admissible, credible evidence of honest error or difference
24 of opinion presented by the respondent. The respondent has the burden of ~~going forward with~~ with and
25 proving by a preponderance of the evidence any and all affirmative defenses raised and proving by a
26 ~~preponderance of the evidence any mitigating factors that are relevant to a decision to impose~~
27 administrative actions following a research misconduct proceeding.
28

29 A finding of research misconduct ~~made~~ requires a determination by the Committee ~~(by a five-sixths~~ by an
30 eighty percent (80%) majority vote) that (a) ~~There 1)~~ there was a significant departure from accepted
31 practices of the relevant research community; (b) ~~The 2)~~ the misconduct was committed intentionally,
32 knowingly, or recklessly; and (c) ~~The 3)~~ the allegation was proven by a preponderance of the evidence.
33 Preponderance of the evidence means proof by information that, compared with that opposing it,
34 leads to the conclusion that the fact at issue is more probably true than not. If the Committee can not
35 reach this conclusion, then it will report that the individual(s) under investigation have been
36 exonerated. A minority report by a Committee member may be written which will be included
37 ~~in~~ with the final report. The Committee may make other relevant recommendations for action to be
38 taken by the University, including, but not limited to, referring the matter to the Committee on
39 Professional Conduct.
40

41 At the close of its investigation, the Committee will prepare a ~~two-part~~ draft written report, and make
42 that draft report available for comment by the ~~subject~~ respondent(s). The comments of the investigation.
43 ~~The respondent(s), if any, must be submitted in writing to the~~ Committee will submit the report to the
44 Provost, Dean within 30 days of the School or College and date on which the respondent(s) received the Vice

1 Provost for Research draft report. If they can be identified, the complainant(s) should be provided with
2 those portions of the report that address their role and opinions in the investigation. The comments of
3 the complainant, if any, must be submitted in writing to the Committee within 30 days of the date on
4 which the complainant received the draft investigation report or relevant portions of it. The
5 Committee will submit the final report including any comments received from the respondent(s) or
6 the complainant to the Provost, Dean of the School or College at which the respondent has an
7 appointment, and the Vice Provost for Research.

8
9 The final ~~institutional investigation~~ Committee report must be in writing and must: (a)

- 10
11 (1) Describe the nature of the allegations of research misconduct; (b)
12 (2) Describe and document the funding support, if any, including for example, any grant
13 numbers, grant applications, contracts, and publications listing funding agency
14 support; (c)
15 (3) Describe the specific allegations of research misconduct for consideration in the
16 investigation; (d)
17 (4) If not already provided where required to ORI with the inquiry report, include the
18 institutional policies and procedures under which the investigation was conducted; (e)
19 (5) Identify and summarize the research records and evidence reviewed, and identify any
20 evidence taken into custody but not reviewed; (f)
21 (6) For each separate allegation of research misconduct identified during the
22 investigation, provide a finding as to whether research misconduct did or did not
23 occur, and if so, (1)
24 (a) Identify whether the research misconduct was falsification, fabrication, or
25 plagiarism, and if it was intentional, knowing, or in reckless disregard. (2)
26 (b) Summarize the facts and the analysis which support the conclusion and
27 consider the merits of any reasonable explanation by the respondent; (3)
28 (c) Identify the specific funding agency support, if any, (4)
29 (d) Identify whether any publication needs correction or retraction; (5)
30 (e) Identify the person(s) responsible for the misconduct; and (6)
31 (f) For research involving federal agency funding, list any current support or
32 known applications or proposals for support that the respondent has pending
33 with Federal agencies. (g)
34 (7) Include and consider any comments made by the respondent and complainant on the
35 draft investigation report. ~~The Committee~~

36
37 For studies involving federal agency funding, the University must maintain and provide to ORI upon
38 request all relevant research records and records of the institution's research misconduct proceeding,
39 including results of all interviews and the transcripts or recordings of such interviews.

40
41 All recommendations of the Committee shall be considered as advisory to the dean of the ~~school or~~
42 ~~college~~ School or College and to the Provost, who shall be responsible for further action consistent with
43 University policy. In principle, anyone found to have committed research misconduct should, in the
44 absence of extenuating circumstances, be recommended for dismissal from the University. In the

1 case of tenured faculty, this is consistent with initiation of termination for cause proceedings as a
2 consequence of dishonesty in research as defined in the Faculty Manual. If it is found that
3 misconduct was committed by a collaborator or other member of a research team, and the supervisor
4 of the research is found to have failed to make reasonable and periodic inquiry as to the authenticity
5 of the data, and if this inquiry would have been likely to prevent or uncover the fraudulent research,
6 the supervisor should be recommended for appropriate sanction. The Provost will determine what
7 sanctions and/or ~~other~~ corrective action will be taken in accordance with University policy (including
8 the provisions of the Faculty Manual) and ~~submit the report~~ ensure that the report is submitted to any
9 appropriate agencies.

10
11 If the Committee determines that the allegations of misconduct were made in bad faith, the
12 Committee may recommend sanctions be imposed against those making bad faith allegations. This
13 recommendation will be forwarded to the appropriate human resource department ~~or~~ and to the
14 Provost.

15 16 17 18 **Notification During Inquiry or Investigation**

19
20 The relevant governmental agency shall be notified by the Provost or designee when the
21 ~~institution~~ University determines that an investigation involving federally funded research is
22 warranted. ~~A~~ For all research, a determination of the need to inform other interested parties
23 including the dean and the chair will also be made at this time. A determination as to whether other
24 interested parties, such as collaborators, supervisors, and officials of sponsoring or funding agencies
25 or institutions, shall be notified will normally be made only after a formal investigation is initiated.

26
27 The Provost or designee is responsible for immediately notifying the ORI if the Provost or designee
28 ascertains at any stage of the inquiry or investigation of research misconduct involving federally
29 sponsored research activities that there is reason to believe that any of the following conditions exist:

- 30
31 ~~(a)~~ (1) Health or safety of the public is at risk, including an immediate need to protect human
32 or animal subjects.
33 ~~(b)~~ (2) Department of Health and Human Services (HHS) resources or interest are threatened.
34 ~~(c)~~ (3) Research activities should be suspended.
35 ~~(d)~~ (4) There is reasonable indication of possible violations of civil or criminal law.
36 ~~(e)~~ (5) Federal action is required to protect the interests of those involved in the research
37 misconduct proceeding.
38 ~~(f)~~ (6) The research misconduct proceeding may be made public prematurely and HHS
39 should be ~~enable~~ enabled to take appropriate steps to safeguard evidence and protect the
40 rights of those involved.
41 ~~(g)~~ (7) The research community or public should be informed.

42
43 In such circumstances, consideration may be given to the advisability of notifying a funding agency
44 as well.

1
2 For federally funded studies, the Vice Provost for Research -will keep ORI apprised of any
3 developments during the course of the investigation which disclose facts that may affect current or
4 potential agency funding for the individual(s) under investigation or that the agency needs to know to
5 ensure appropriate use of Federal funds and otherwise protect the public interest or as may be
6 required by federal law or regulations.
7

8 **Interim Action**

9

10 If at any time during the formal investigation, the Committee feels that interim action by the
11 administration is needed in order to safeguard the interests of any of the involved parties or funding
12 agencies or to expedite the investigation, it may recommend appropriate measures to the Vice Provost
13 for Research. It will be the responsibility of the Vice Provost for Research to consult regularly with
14 the Committee during the investigation and to apprise ~~funding appropriate~~ agencies of any
15 developments material to their interests, and take appropriate action to protect sponsoring agency
16 funds.
17
18

19 **Notification of Third Parties after Investigation**

20

21 The Committee shall identify and advise the Vice Provost for Research of all parties who should be
22 notified of its findings; these may include the Faculty Senate, editors of journals or officers of
23 societies where research papers or abstracts related to the research have appeared or are pending, and
24 the officials of current or past granting agencies involved in funding or otherwise sponsoring any
25 compromised research. The Vice Provost for Research shall notify the Institutional Review Board or
26 Institutional Animal Care and Use Committee where appropriate. The Committee may also
27 recommend actions concerning the release of information regarding the incident to the media and
28 corrective actions to prevent further instances of misconduct in light of the experience gained from
29 the investigation.
30

31 For research involving Public Health Service (PHS) funding, the Vice Provost for Research shall
32 provide the ORI with a copy of the investigative report, including all attachments; a statement of
33 whether the University found research misconduct and if so, who committed the misconduct; a
34 statement whether the University accepts the Committee's findings; and a description of any pending
35 or completed administrative actions against the respondent.
36

37 In the event the research is funded by a federal agency other than PHS agencies with scientific
38 misconduct rules different from those of PHS, the University shall comply with the other funding
39 agency rules and reporting requirements if they differ from this policy.
40

41 If the charges of misconduct are not substantiated, those under investigation shall be so notified in
42 writing, and the University shall undertake diligent efforts to ensure that the reputations of those
43 involved are restored as fully as possible. This may require, with approval of the accused,
44 notification of collaborators, granting agencies, and any others who might have become aware of the

1 investigation.

2

3 The University agrees to cooperate fully with ORI during its oversight review or any subsequent
4 administrative hearings or appeals as may be authorized by federal regulations. This includes
5 providing all research records and evidence under the institution's control, custody, or possession and
6 access to all persons within its authority necessary to develop a complete record of relevant evidence.

7

8 **Dissemination of This Statement of Policies and Procedures**

9

10 This document shall be distributed to each faculty member on initial appointment and the faculty at
11 large shall be notified through posting on the University website and through appropriate University
12 list servers whenever changes are made.

13

1 [clean version incorporating proposed changes]
2

3 **POLICIES AND PROCEDURES OF THE UNIVERSITY OF MIAMI**
4 **RELATING TO ALLEGATIONS OF MISCONDUCT IN RESEARCH**

5 Research in an institution such as the University of Miami is grounded upon the principles of
6 academic freedom and mutual trust. The fostering of inquiry and creativity requires an atmosphere in
7 which all are presumed to adhere to high ethical standards in the conduct of research and other
8 academic pursuits. Misconduct in research is a fundamental violation of this trust and represents an
9 assault upon the integrity of the University community.

10
11 Acts of misconduct are fortunately rare events, but because of the seriousness of allegations and the
12 special responsibilities of the University in such circumstances, both to individual researchers and to
13 society, it is recognized that explicit procedures must be provided for dealing with instances of
14 alleged misconduct. It is the purpose of this document to outline the policies and procedures that will
15 be followed in the investigation and reporting of allegations of research misconduct at the University
16 of Miami.

17
18 In establishing these procedures, however, it must be emphasized that the best mechanism for dealing
19 with misconduct is to prevent it. Thus it is imperative that those who participate in research reaffirm
20 their responsibility for the ethical conduct of all research activities with which they are associated.
21 Principal investigators, laboratory supervisors and others who lead research must recognize their
22 ultimate responsibility for the authenticity of research conducted and published in their names and
23 realize that they must provide adequate supervision for their trainees and research teams. It is also
24 their responsibility to see that all persons who have contributed to the research receive appropriate
25 credit for their work. It is incumbent upon collaborators and other contributors to research to
26 understand that the inclusion of their names as co-authors of publications reflects a genuine
27 contribution to the work, and signifies that they have approved the publication and are prepared to
28 accept responsibility for the work reported.

29
30 In order to respond to allegations regarding the integrity of any published report, adequate records of
31 the original protocols and research records, including all raw data, must be preserved for at least
32 seven years (or longer if required by the funding agency), so they can be made available for
33 inspection.

34
35 This policy is applicable to research misconduct arising from research conducted at the University,
36 and/or conducted by University faculty and employees, including misconduct involving: (1)
37 Applications or proposals for support for extramural or intramural research, research training or
38 activities related to that research or research training, such as the operation of tissue and data banks
39 and the dissemination of research information; (2) Supported extramural or intramural research; (3)
40 Supported extramural or intramural research training programs; (4) Supported extramural or
41 intramural activities that are related to research or research training, such as the operation of tissue
42 and data banks or the dissemination of research information; and (5) Plagiarism of research records
43 produced in the course of supported research, research training or activities related to that research or

1 research training. This includes any research proposed, performed, reviewed, or reported or any
2 research record generated from that research, regardless of whether an application or proposal for
3 funds resulted in a grant, contract, cooperative agreement, or other form of extramural or intramural
4 support

5
6 This policy applies only to research misconduct occurring within six years of the date the
7 University receives an allegation of research misconduct, unless (1) the respondent continues or
8 renews any incident of alleged research misconduct that occurred before the six-year limitation
9 through the citation, republication or other use, for the potential benefit of the respondent, of the
10 research record that is alleged to have been fabricated, falsified, or plagiarized, or (2) the
11 University, following consultation with the Office of Research Integrity (hereinafter "ORI"),
12 determines that the alleged misconduct, if it occurred, would possibly have a substantial adverse
13 effect on the health or safety of the public. In the event the alleged misconduct occurred outside
14 the time limit described above, the matter should be referred to the Committee on Professional
15 Conduct.

16 17 **Definitions**

18
19 Research means a systematic experiment, study, evaluation, demonstration or survey designed to
20 develop or contribute to general knowledge (basic research) or specific knowledge (applied research).
21 Research, as used herein, includes all basic and applied research in all disciplines. This includes,
22 but is not limited to, research in economics, education, the humanities, linguistics, medicine,
23 nursing, psychology, the natural and social sciences, engineering, mathematics and statistics, and
24 includes any research involving human subjects or animals.

25
26 Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or
27 reviewing research, or in reporting research results. Fabrication is making up data or results and
28 recording or reporting them. Falsification is manipulating research materials, equipment, or
29 processes, or changing or omitting data or results such that the research is not accurately represented
30 in the research record. Plagiarism is the appropriation of another person's ideas, processes, results, or
31 words without giving appropriate credit. Plagiarism may also include self-plagiarism. Self-
32 plagiarism refers to the author's re-use of their earlier work and passing it off as new or original
33 material. Research misconduct does not include honest error or honest differences of opinion.

34
35 Research record means the record of data or results that embody the facts resulting from scientific
36 inquiry, including but not limited to, research proposals, laboratory records, both physical and
37 electronic, progress reports, abstracts, theses, oral presentations, chapters, books, audio or video tapes,
38 CDs, internal reports, journal articles, and any documents and materials provided to the University or
39 to a University official by a respondent in the course of the research misconduct proceeding.

40
41 Research support means funding, or applications or proposals, for research, research training, or
42 activities related to that research or training, that may be provided through: (1) funding for
43 intramural or extramural research by grants, cooperative agreements, or contracts; or (2) subgrants or
44 subcontracts under those funding instruments; or (3) salary or other payments under those grants,

1 cooperative agreements, or contracts.
2

3 **The Committee to Investigate Misconduct in Research**
4

5 The Committee to Investigate Misconduct in Research (hereinafter referred to as the Committee) is
6 charged with the responsibility of investigating allegations of research misconduct by members of the
7 academic community of the University of Miami. It is the Committee's responsibility to determine if
8 allegations of research misconduct can be substantiated, to ensure that the relevant authorities are
9 informed of the existence and progress of any formal investigations, to make a final report on the
10 findings of investigations, and to recommend appropriate action to the dean of the School or College
11 and to the Provost.
12

13 The Committee shall be drawn from a standing body (the "pool") consisting of twenty-one tenured
14 members of the faculty appointed by the Provost. There shall be at least three members from each of
15 the three major campuses represented in the pool. Membership terms in the pool are for three years
16 and shall be staggered. Members whose terms are ending while a specific matter is under
17 consideration shall continue to serve for the duration of that matter. The Vice Provost for Research
18 shall select six members from that twenty-one member pool to serve as the Committee for each
19 investigation. Members of a Committee shall continue to serve for the duration of that matter. The
20 Assistant Provost for Research Standards shall be a non-voting ex-officio member of the Committee.
21 The members of the Committee will elect a chair to conduct the proceedings. Additional ad hoc
22 members of the Committee with special expertise in the area of investigation may be appointed to the
23 Committee from within or outside the full-time faculty of the University at the request of the
24 Committee or by the Vice Provost for Research. Only those ad hoc members who are full-time
25 University faculty may vote. In accordance with federal law, reasonable steps shall be taken to
26 ensure an impartial and unbiased investigation to the maximum extent practicable, including
27 participation of persons with appropriate scientific expertise who do not have unresolved personal,
28 professional, or financial conflicts of interest with those involved with the inquiry or investigation.
29 Members of the Committee whose participation in the investigation of allegations against a specific
30 individual could be construed as inappropriate or who are involved in the research in question will be
31 expected to recuse themselves from such proceedings. In case of doubt, the Vice Provost for
32 Research, or the Committee by majority vote, may require a member to recuse himself or herself.
33

34 In the event the Vice Provost for Research has a conflict of interest related to an allegation, he or she
35 will recuse himself or herself. The Provost will appoint an appropriate individual to act for the Vice
36 Provost for Research under these circumstances.
37

38 **Procedures for the Investigation of Alleged Misconduct**
39

40 The goal of the procedures is to investigate and resolve allegations of research misconduct in an
41 expeditious, responsible and fair manner. The responsibility of protecting the rights and reputations
42 of all who are involved in any investigation of research misconduct is recognized as very important.
43 For this reason, disclosure of the identity of respondents and complainants in research misconduct
44 proceedings shall be limited, to the extent possible, to those who need to know, consistent with a

1 thorough, competent, objective and fair research misconduct proceeding, and as required or allowed
2 by statute or regulation.. The University shall protect, to the extent possible, the privacy of those who
3 in good faith report apparent research misconduct and shall undertake all reasonable and practical
4 efforts to protect the positions and reputations of any complainant, witness, or Committee member
5 and to prevent potential or actual retaliation against these complainants, witnesses, and Committee
6 members. Individuals responsible for carrying out any part of the research misconduct proceeding
7 must not have unresolved personal, professional or financial conflicts of interest with the
8 complainant, respondent or witnesses. The University and Committee shall afford the respondents,
9 complainants and research subjects identifiable from research records or evidence confidential
10 treatment to the extent possible. Persons accused of misconduct may consult with legal counsel, but
11 legal counsel for neither the accused nor for the University may participate in any hearing or
12 interview.

13 Steps in an investigation

- 14
15
16 **1. Allegation** – Allegation means a disclosure of possible research misconduct through any
17 means of communication. The disclosure may be by written or oral statement or other
18 communication to an institutional official. Allegations of misconduct should normally be
19 directed to the Vice Provost for Research or designee, who shall determine if an inquiry is
20 warranted. Others who receive an allegation of misconduct should immediately forward it to
21 the Vice Provost for Research.
22
- 23 **2.** An inquiry is warranted if the Vice Provost for Research determines that the allegation (1)
24 falls within the definition of research misconduct and (2) is sufficiently credible and specific
25 so that potential evidence of possible research misconduct may be identified.
26
- 27 **3. Inquiry** - An inquiry is an information gathering and initial fact finding process to determine
28 if a formal investigation of misconduct should be undertaken. An inquiry will be conducted
29 by an Inquiry Panel, made up of three tenured faculty members chosen by the Vice Provost
30 for Research from the pool. Members who serve on the Inquiry Panel may not serve on the
31 Investigation Committee for the same matter. The Assistant Provost for Research Standards
32 shall be a non-voting ex-officio member of the Inquiry Panel. At the time of or before
33 beginning an inquiry, the Vice Provost for Research must make a good faith effort to notify in
34 writing the presumed respondent. If the Inquiry Panel subsequently identifies additional
35 respondents, the Inquiry Panel will notify the Vice Provost for Research who in turn will
36 notify them in writing.
37

38 To the extent it has not already done so at the allegation stage, the University must, on or
39 before the date on which the respondent is notified or inquiry begins, whichever is earlier,
40 promptly take all reasonable and practical steps to (1) obtain custody of all the research
41 records and evidence needed to conduct the research misconduct proceeding, (2) inventory
42 the records and evidence, and (3) sequester them in a secure manner, except that, where the
43 research records or evidence encompass scientific instruments shared by a number of users,
44 custody may be limited to copies of the data or evidence on such instruments, so long as those

1 copies are substantially equivalent in evidentiary value to the original data or evidence on the
2 instruments. The University shall, where appropriate, give the respondent copies of, or
3 reasonable, supervised access to, the research record. The University shall undertake all
4 reasonable and practical efforts to take custody of additional research records or evidence that
5 is discovered during the course of a research misconduct proceeding.
6

7 An inquiry must be completed within 60 calendar days of its initiation unless circumstances
8 clearly warrant a longer period. A draft written report shall be prepared that states what
9 evidence was reviewed, summarizes relevant interviews, and includes the conclusions of the
10 Inquiry Panel as to whether an investigation is warranted. An investigation is warranted if
11 there is (1) a reasonable basis for concluding that the allegation falls within the definition of
12 research misconduct and (2) preliminary information-gathering and preliminary fact-finding
13 from the inquiry indicates that the allegation may have substance.
14

15 The individual(s) against whom the allegations were made shall be given a copy of the draft
16 report. If they wish to comment on that report, their comments must be submitted in writing
17 to the Inquiry Panel within 14 calendar days of the date on which the individual(s) received
18 the draft report and will be made part of the record. If the inquiry takes longer than 60 days to
19 complete, the record of the inquiry shall include documentation of the reasons for exceeding
20 the 60-day period.
21

22 The final report of the Inquiry Panel, including any comments received from the individual(s)
23 against whom the allegations were made, shall be sent to the Vice Provost for Research. The
24 reasons for the decision whether an investigation is warranted should be documented in that
25 report.
26

27 The Vice Provost for Research shall maintain sufficiently detailed documentation of inquiries
28 to permit a later assessment of the reason for that decision. Such records shall be maintained
29 in a secure manner for a period of at least seven years after the termination of the inquiry, and
30 shall, upon request, be provided to authorized federal agency personnel as may be required by
31 law.
32

33 Within 30 days of finding that an investigation regarding research involving federal agency
34 support is warranted, the University shall provide ORI with the written findings and a copy of
35 the report of the Inquiry Panel which shall include the following information: (1) The name
36 and position of the respondent; (2) A description of the allegations of research misconduct;
37 (3) The federal agency support, including for example, grant numbers, grant applications,
38 contracts, and publications listing federal agency support; (4) The basis for recommending
39 that the alleged actions warrant an investigation; and (5) Any comments on the report by the
40 respondent. The University shall provide the following information to ORI upon request: (1)
41 The institutional policies and procedures under which the inquiry was conducted; (2) The
42 research records and evidence reviewed, transcripts or recordings of any interviews, and
43 copies of all relevant documents; and (3) The charges for the investigation to consider.
44

1 **4. Formal investigation of misconduct** - If findings from the inquiry provide a sufficient
2 basis for conducting an investigation by the Committee, the Vice Provost for Research will
3 initiate an investigation within 30 days following receipt of the Inquiry Panel report. An
4 investigation means the formal development of a factual record and the examination of that
5 record leading to a decision either to make a finding that research misconduct was not
6 shown or to recommend a finding of research misconduct; the latter finding may include a
7 recommendation for appropriate actions, including administrative actions. The Vice
8 Provost for Research will inform the respondent and any collaborators promptly, in
9 writing, of the allegations, of the decision to initiate a formal investigation, and of the
10 procedures that will be followed. The Committee shall give the respondent and the Vice
11 Provost for Research written notice of any new allegations of research misconduct within a
12 reasonable amount of time after deciding to pursue any such allegations not addressed
13 during the inquiry or included in the initial notice of investigation.
14

15 The Committee is empowered to call for and examine all relevant documentation,
16 including, but not limited to, research data and proposals, laboratory notebooks, grant
17 applications, publications, correspondence, memoranda of telephone calls and computer
18 data, files and programs. These materials may relate to any research with which the
19 accused is involved. To the extent the University has not already done so at the allegation
20 or inquiry stages, the Committee shall take all reasonable and practical steps to (1) obtain
21 custody of all the research records and evidence needed to conduct the research
22 misconduct proceeding, (2) inventory the records and evidence, and (3) sequester them in a
23 secure manner, except that, where the research records or evidence encompass scientific
24 instruments shared by a number of users, custody may be limited to copies of the data or
25 evidence on such instruments, so long as those copies are substantially equivalent in
26 evidentiary value to the data or evidence on the instruments. Whenever possible, the
27 University shall take custody of the records (1) before or at the time the Vice Provost for
28 Research notifies the respondent; and (2) promptly thereafter, whenever additional items
29 become known or relevant to the investigation. The University shall, where appropriate,
30 give the respondent copies of or reasonable, supervised access to, the research record.
31

32 A first round of hearings will be conducted in which those who have brought the charges,
33 those alleged to have committed research misconduct, and any others who might have
34 knowledge relevant to the alleged misconduct will be interviewed individually in closed-
35 door sessions. A transcription or recording of these interviews shall be prepared and given
36 to each interviewed party for comment or revision, and included as part of the
37 investigatory file. Comments by any interviewed party or the accused must be made
38 within 30 days of receipt of the transcription or recording. The Committee shall consider
39 and address any comments of the interviewed parties and the respondent before issuing a
40 final report. The Committee shall use diligent efforts to ensure that the investigation is
41 thorough and sufficiently documented and includes examination of all research, records
42 and evidence relevant to reaching a decision on the merits of the allegations. The
43 Committee shall pursue diligently all significant issues and leads discovered that are
44 determined relevant to the investigation, including any evidence of additional instances of

1 possible research misconduct, and continue the investigation to completion.
2

3 At the conclusion of these hearings, the Committee will review the evidence and apprise all
4 those who may bear some responsibility for the alleged misconduct of the results of the
5 investigation to that point. These individuals will then be granted the right of rebuttal and the
6 opportunity to present additional evidence to the Committee. Following this, the Committee
7 may recall earlier witnesses for re-examination, call new witnesses, or close the investigative
8 phase. In any case, before the Committee moves toward final deliberations, those bearing
9 potential responsibility will always be given an opportunity to review and comment upon any
10 new evidence uncovered subsequent to their last appearance before the Committee.
11

12 The Committee must complete within 120 days all aspects of investigation, including
13 conducting the investigation, preparing the report of findings, providing the draft report for
14 comment and sending the final report to the appropriate University officials in order that
15 the final report can be submitted to ORI where required. If unable to complete the
16 investigation in 120 days, the Committee must provide the reasons for the delay to the
17 Vice Provost for Research who must ask ORI for an extension in writing, where required.
18

19 **Committee Report and Recommendations**

20
21 The Committee will evaluate all evidence and testimony in order to determine if the allegations of
22 misconduct are substantiated and, if so, who must bear responsibility. Because of the negative impact
23 of charges of misconduct, whether ultimately substantiated or not, on the research career of an
24 individual, it is important that the Committee's final decision be rendered in clear terms. The
25 destruction, absence of, or respondent's failure to provide research records adequately documenting
26 the questioned research is evidence of research misconduct where the University establishes by a
27 preponderance of the evidence that the respondent had research records and intentionally, knowingly,
28 or recklessly failed to produce them in a timely manner and that the respondent's conduct constitutes
29 a significant departure from accepted practices of the relevant research community. In determining
30 whether the University has carried the burden of proof imposed by this part, the Committee shall give
31 due consideration to admissible, credible evidence of honest error or difference of opinion presented
32 by the respondent. The respondent has the burden of going forward with and proving by a
33 preponderance of the evidence any and all affirmative defenses raised and any mitigating factors that
34 are relevant to a decision to impose administrative actions following a research misconduct
35 proceeding.
36

37 A finding of research misconduct requires a determination by the Committee by an eighty percent
38 (80%) majority vote that (1) there was a significant departure from accepted practices of the relevant
39 research community; (2) the misconduct was committed intentionally, knowingly, or recklessly; and
40 (3) the allegation was proven by a preponderance of the evidence. Preponderance of the evidence
41 means proof by information that, compared with that opposing it, leads to the conclusion that the fact
42 at issue is more probably true than not. If the Committee cannot reach this conclusion, then it will
43 report that the individual(s) under investigation have been exonerated. A minority report by a
44 Committee member may be written which will be included with the final report. The Committee may

1 make other relevant recommendations for action to be taken by the University, including, but not
2 limited to, referring the matter to the Committee on Professional Conduct.

3
4 At the close of its investigation, the Committee will prepare a draft written report, and make that draft
5 report available for comment by the respondent(s). The comments of the respondent(s), if any, must
6 be submitted in writing to the Committee within 30 days of the date on which the respondent(s)
7 received the draft report. If they can be identified, the complainant(s) should be provided with those
8 portions of the report that address their role and opinions in the investigation. The comments of the
9 complainant, if any, must be submitted in writing to the Committee within 30 days of the date on
10 which the complainant received the draft investigation report or relevant portions of it. The
11 Committee will submit the final report including any comments received from the respondent(s) or
12 the complainant to the Provost, Dean of the School or College at which the respondent has an
13 appointment, and the Vice Provost for Research.

14
15 The final Committee report must be in writing and must:

- 16
17 (1) Describe the nature of the allegations of research misconduct;
- 18 (2) Describe and document the funding support, if any, including for example, any grant
19 numbers, grant applications, contracts, and publications listing funding agency
20 support;
- 21 (3) Describe the specific allegations of research misconduct for consideration in the
22 investigation;
- 23 (4) If not already provided where required to ORI with the inquiry report, include the
24 institutional policies and procedures under which the investigation was conducted;
- 25 (5) Identify and summarize the research records and evidence reviewed, and identify any
26 evidence taken into custody but not reviewed;
- 27 (6) For each separate allegation of research misconduct identified during the
28 investigation, provide a finding as to whether research misconduct did or did not
29 occur, and if so,
 - 30 (a) Identify whether the research misconduct was falsification, fabrication, or
31 plagiarism, and if it was intentional, knowing, or in reckless disregard.
 - 32 (b) Summarize the facts and the analysis which support the conclusion and
33 consider the merits of any reasonable explanation by the respondent;
 - 34 (c) Identify the specific funding agency support, if any,
 - 35 (d) Identify whether any publication needs correction or retraction;
 - 36 (e) Identify the person(s) responsible for the misconduct; and
 - 37 (f) For research involving federal agency funding, list any current support or
38 known applications or proposals for support that the respondent has pending
39 with Federal agencies.
- 40 (7) Include and consider any comments made by the respondent and complainant on the
41 draft investigation report.

42
43 For studies involving federal agency funding, the University must maintain and provide to ORI upon
44 request all relevant research records and records of the institution's research misconduct proceeding,

1 including results of all interviews and the transcripts or recordings of such interviews.
2

3 All recommendations of the Committee shall be considered as advisory to the dean of the School or
4 College and to the Provost, who shall be responsible for further action consistent with University
5 policy. In principle, anyone found to have committed research misconduct should, in the absence of
6 extenuating circumstances, be recommended for dismissal from the University. In the case of tenured
7 faculty, this is consistent with initiation of termination for cause proceedings as a consequence of
8 dishonesty in research as defined in the Faculty Manual. If it is found that misconduct was
9 committed by a collaborator or other member of a research team, and the supervisor of the research is
10 found to have failed to make reasonable and periodic inquiry as to the authenticity of the data, and if
11 this inquiry would have been likely to prevent or uncover the fraudulent research, the supervisor
12 should be recommended for appropriate sanction. The Provost will determine what sanctions and/or
13 corrective action will be taken in accordance with University policy (including the provisions of the
14 Faculty Manual) and ensure that the report is submitted to any appropriate agencies.
15

16 If the Committee determines that the allegations of misconduct were made in bad faith, the
17 Committee may recommend sanctions be imposed against those making bad faith allegations. This
18 recommendation will be forwarded to the appropriate human resource department and to the Provost.
19

20 **Notification During Inquiry or Investigation** 21

22 The relevant governmental agency shall be notified by the Provost or designee when the
23 University determines that an investigation involving federally funded research is warranted. For
24 all research, a determination of the need to inform other interested parties including the dean and
25 the chair will also be made at this time. A determination as to whether other interested parties, such
26 as collaborators, supervisors, and officials of sponsoring or funding agencies or institutions, shall be
27 notified will normally be made only after a formal investigation is initiated.
28

29 The Provost or designee is responsible for immediately notifying the ORI if the Provost or designee
30 ascertains at any stage of the inquiry or investigation of research misconduct involving federally
31 sponsored research activities that there is reason to believe that any of the following conditions exist:
32

- 33 (1) Health or safety of the public is at risk, including an immediate need to protect human
34 or animal subjects.
- 35 (2) Department of Health and Human Services (HHS) resources or interest are threatened.
- 36 (3) Research activities should be suspended.
- 37 (4) There is reasonable indication of possible violations of civil or criminal law.
- 38 (5) Federal action is required to protect the interests of those involved in the research
39 misconduct proceeding.
- 40 (6) The research misconduct proceeding may be made public prematurely and HHS
41 should be enabled to take appropriate steps to safeguard evidence and protect the
42 rights of those involved.
- 43 (7) The research community or public should be informed.
44

1 In such circumstances, consideration may be given to the advisability of notifying a funding agency
2 as well.

3
4 For federally funded studies, the Vice Provost for Research will keep ORI apprised of any
5 developments during the course of the investigation which disclose facts that may affect current or
6 potential agency funding for the individual(s) under investigation or that the agency needs to know to
7 ensure appropriate use of Federal funds and otherwise protect the public interest or as may be
8 required by federal law or regulations.

9
10 **Interim Action**

11
12 If at any time during the formal investigation, the Committee feels that interim action by the
13 administration is needed in order to safeguard the interests of any of the involved parties or funding
14 agencies or to expedite the investigation, it may recommend appropriate measures to the Vice Provost
15 for Research. It will be the responsibility of the Vice Provost for Research to consult regularly with
16 the Committee during the investigation and to apprise appropriate agencies of any developments
17 material to their interests, and take appropriate action to protect sponsoring agency funds.

18
19 **Notification of Third Parties after Investigation**

20
21 The Committee shall identify and advise the Vice Provost for Research of all parties who should be
22 notified of its findings; these may include the Faculty Senate, editors of journals or officers of
23 societies where research papers or abstracts related to the research have appeared or are pending, and
24 the officials of current or past granting agencies involved in funding or otherwise sponsoring any
25 compromised research. The Vice Provost for Research shall notify the Institutional Review Board or
26 Institutional Animal Care and Use Committee where appropriate. The Committee may also
27 recommend actions concerning the release of information regarding the incident to the media and
28 corrective actions to prevent further instances of misconduct in light of the experience gained from
29 the investigation.

30
31 For research involving Public Health Service (PHS) funding, the Vice Provost for Research shall
32 provide the ORI with a copy of the investigative report, including all attachments; a statement of
33 whether the University found research misconduct and if so, who committed the misconduct; a
34 statement whether the University accepts the Committee's findings; and a description of any pending
35 or completed administrative actions against the respondent.

36
37 In the event the research is funded by a federal agency other than PHS agencies with scientific
38 misconduct rules different from those of PHS, the University shall comply with the other funding
39 agency rules and reporting requirements if they differ from this policy.

40
41 If the charges of misconduct are not substantiated, those under investigation shall be so notified in
42 writing, and the University shall undertake diligent efforts to ensure that the reputations of those
43 involved are restored as fully as possible. This may require, with approval of the accused,
44 notification of collaborators, granting agencies, and any others who might have become aware of the

1 investigation.

2

3 The University agrees to cooperate fully with ORI during its oversight review or any subsequent
4 administrative hearings or appeals as may be authorized by federal regulations. This includes
5 providing all research records and evidence under the institution's control, custody, or possession and
6 access to all persons within its authority necessary to develop a complete record of relevant evidence.

7

8 **Dissemination of This Statement of Policies and Procedures**

9

10 This document shall be distributed to each faculty member on initial appointment and the faculty at
11 large shall be notified through posting on the University website and through appropriate University
12 list servers whenever changes are made.