III-1.10(A) UNIVERSITY OF MARYLAND POLICY AND PROCEDURES CONCERNING SCHOLARLY MISCONDUCT

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INTRODUCTION

Scholarly integrity is the responsibility of the entire academic community. All members of the university community—students, staff, faculty and administrators—share responsibility for developing and maintaining standards to promote honesty, accuracy, and objectivity in scholarly work and for reporting abuse of these standards. Misconduct in carrying out academic activities undermines the integrity of the educational system and the scholarly enterprise, and erodes the public trust in the university community. The responsibility to prevent and report misconduct, however, ought not create an atmosphere that discourages the openness and creativity that are vital to scholarship.

Institutions that apply for or receive federal funds for research are required by law to share responsibility for the integrity of the research process (e.g., Public Health Service Policies on Research Misconduct, 42 CFR Part 93). The University of Maryland (University) voluntarily applies the common federal standards for integrity in research to all University scholarship regardless of funding source. Both the University and its personnel have a duty to ensure the integrity of research and research training by assuming primary responsibility for responding to allegations of Scholarly Misconduct.

APPLICABILITY

This policy applies to scholarly work, which includes research and other creative activity, research training, applications and proposals, and related activity containing a research component, performed at the University by any person, including faculty, staff, students, visitors and others; or performed with the use of University resources; or performed elsewhere, by a person acting under the auspices of the University.

This policy does not apply to various types of professional and/or instructional misconduct, including misconduct related to the individual's role as an instructor or administrator, or misrepresentations for personal or professional advancement. These types of misconduct may be addressed in separate University or University System of Maryland processes or policies.

Allegations of Scholarly Misconduct, whether the scholarly work is sponsored or not, will be reviewed using this policy, subject to the limitations below:

A. This policy does not supersede other University System of Maryland or University policies and procedures, such as those addressing authorship disputes, suspected fiscal irregularity, conflict of interest, and unethical conduct of research involving human or animal subjects. Should violations of other University policies be found during the review of a Scholarly Misconduct Allegation, the Research Integrity Officer (RIO) will make referrals to the appropriate office or officer and work to coordinate any concurrent or successive investigations.

B. If an Allegation of Scholarly Misconduct involves a student, the RIO, in consultation with the Director of Student Conduct will determine whether this policy, the *Code of Academic Integrity,* or the *Code of Student Conduct* will apply. Allegations of misconduct by students

in academic exercises, such as examinations and course requirements, are generally handled pursuant to the University's *Code of Academic Integrity*.

C. All other instances of research misconduct, whether the research is sponsored or not, will follow this policy.

POLICY

It is the policy of the University:

A. To maintain high standards of honesty, accuracy, and objectivity in scholarly work, to prevent Scholarly Misconduct where possible, and to evaluate and to resolve promptly and fairly instances of alleged or apparent Scholarly Misconduct.

B. To take appropriate remedial and disciplinary action in response to findings of Scholarly Misconduct.

I. DEFINITIONS

"Abuse of Confidentiality/Misappropriation of Ideas" means the improper use or appropriation of information obtained from scholarly exchanges and other types of confidential access, such as from review of grant applications or manuscripts; service on peer review panels, editorial boards, or University committees; and information obtained from publishers, foundations, and organizations that run conferences or engage in other scholarly activities.

"Allegation" means a disclosure of possible Scholarly Misconduct by a Respondent to the RIO by any means of communication. An Allegation should include sufficient detail, and supporting evidence, if available, to permit a Preliminary Assessment by the RIO under this policy.

"Bad Faith" means a material and demonstrable failure to meet the standards for Good Faith set forth herein as a Complainant, a witness, an Inquiry Committee member, an Investigation Committee member, the Responsible Administrator, the Designated Officer, or the RIO. The context in which actions have occurred is a relevant and important factor to be taken into account in determining whether an individual has acted in Bad Faith.

"Complainant" means a person who makes an Allegation. A Complainant need not be affiliated with the University.

"Complaint" means a formal, written communication to the RIO that contains an Allegation of Scholarly Misconduct.

"Conflict of Interest" means any personal, professional, or financial relationship that influences or reasonably would be perceived to influence the impartial performance of a

duty assigned under this policy.

"Counsel" means lay or legal counsel secured by a Complainant or Respondent to serve as an advisor during the Misconduct Proceedings, at the party's own initiation and expense. Counsel may provide advice and consultation to the party. If necessary, a party may request a recess during the proceedings in order to speak privately with Counsel. Counsel may not be an active participant; Counsel may not speak for the parties in person or in writing, serve as a witness, provide information or documentation in the case, cause delay, communicate on behalf of the party, or otherwise interfere with the process.

"Creative Activities" means the preparation or creation of computer programs, websites, motion pictures, sound recordings, projects for competitions, and literary, pictorial, musical, dramatic, audiovisual, choreographic, sculptural, architectural, and graphic works of any kind by (1) a faculty member or other employee of the University as part of their non-instructional scholarly activities, or (2) a student in fulfillment of any independent study requirement at the University whose product is intended to be an original scholarly or creative work of potentially publishable quality (including, but not limited to, a master's or doctoral thesis).

"Deliberate Material Failure to Comply with Federal, State, or University Requirements Affecting Research" means violations involving the use of funds or resources; data management; care of animals; human subjects; investigational drugs; recombinant products; new devices; radioactive, biologic or chemical materials; or the health and safety of individuals or the environment.

"Deliberate Misrepresentation of Qualifications" means misrepresentation of experience or research accomplishments to advance a research program or to obtain external funding.

"Designated Officer" means a University official responsible for implementing and overseeing this policy consistent with applicable laws. The Senior Vice President and Provost shall appoint the Designated Officer.

"Evidence" means any document, tangible item, or testimony that is received, or that may be offered, during a Misconduct Proceeding to prove or disprove the existence of a fact relevant to the Allegation at issue in that Misconduct Proceeding. Depending on the Allegation, Evidence could include, but is not limited to:

- proposals, grant applications, and comments thereon;
- relevant Research data and related records;
- laboratory notebooks and computer files;
- telephone logs and memos of calls;
- correspondence and electronic communications;
- manuscripts, posters, publications, and recordings of oral presentations and interviews.

"Fabrication" means intentionally generating Research data or results that are fictitious

in some regard, and recording or reporting these data or results as being genuine.

"Falsification" means manipulating Research materials, equipment, or processes, or changing or omitting Research data or results in a way that deviates from common practice in the field, such that Research purposely is not accurately represented in the Research Record.

"Good Faith" means having a belief in the truth of one's Allegation or testimony that a reasonable person in the individual's position could have based on the information known to the individual at the time. An Allegation or cooperation with a Misconduct Proceeding is not in Good Faith if made or done with a knowing or reckless disregard for information that would negate the Allegation or testimony.

"Improprieties of Authorship" means the improper assignment of credit that is not in accordance with accepted standards in the relevant discipline, such as inclusion of individuals as authors who have not made a substantial contribution to the published work, exclusion of individuals as authors who have made a substantial contribution to the published work, or submission of multi-authored publications without the concurrence of all authors.

"Inquiry" means preliminary information gathering and initial fact-finding to determine whether an Allegation warrants an Investigation.

"Inquiry Committee" means a group of at least three persons appointed by the RIO to conduct an Inquiry.

"Investigation" means the formal, thorough examination and evaluation of all facts relevant to an Allegation to determine if Scholarly Misconduct occurred and to assess its extent, gravity, and actual and potential consequences.

"Investigation Committee" means a group of at least three persons appointed by the RIO to conduct an Investigation.

"Misappropriation of Funds or Resources" means the misuse of funds or resources intended to support research activities identified in the context of a Scholarly Misconduct investigation.

"Misconduct Proceeding" means any proceeding under this policy related to the review of an Allegation of Scholarly Misconduct, including Preliminary Assessments, Inquiries, Investigations, and internal appeals.

"Misconduct Proceeding Records" means: (1) evidence secured for any Misconduct Proceeding; (2) a record of the RIO's review of other documents, tangible items, and testimony received or secured by the RIO in connection with that Misconduct Proceeding but determined by the RIO to be irrelevant to the Allegation at issue in the Misconduct Proceeding or to duplicate Evidence that has been retained; (3) the Preliminary

Assessment report or referral and final (not draft) documents produced in the course of preparing that report or referral, including any other documentation of a decision that an Inquiry is not warranted; (4) the Inquiry report and final (not draft) documents produced in the course of preparing that report, including any other documentation of a decision that an Investigation is not warranted; (5) the Investigation report and all records (other than drafts of the Investigation report) in support of that report, including the transcripts of each interview or hearing conducted during an Investigation; and (6) the complete record of an internal appeal (see Section IX below) from a finding of Scholarly Misconduct.

"Plagiarism" means the representation of another person's ideas, processes, results, words, images, or other creative works as one's own without giving appropriate credit.

"Preliminary Assessment" means initial information gathering to determine whether there is sufficient credible Evidence to support further review of an Allegation and whether the Respondent's alleged conduct could constitute Scholarly Misconduct or Unacceptable Research Practices.

"Preponderance of the Evidence" means that based on the totality of the Evidence, it is more likely than not that a violation of this policy occurred.

"Questionable Research Practices" means practices that do not constitute Scholarly Misconduct or Unacceptable Research Practices but that require attention because they may erode confidence in the integrity of the Research or Creative Activities.

"Research" means formal investigation conducted for the purpose of producing or contributing to generalizable knowledge, and the reporting thereof, by (1) a faculty member or other employee of the University as part of their non-instructional scholarly activities, or (2) a student in fulfillment of any independent study requirement at the University whose product is intended to be an original scholarly or creative work of potentially publishable quality (including, but not limited to, a master's or doctoral thesis).

"Research Record" means the record of data or results from scholarly inquiry, including, but not limited to, research proposals, laboratory records (in any format), progress reports, abstracts, theses, oral presentations, internal reports, journal articles, books, other publications of any kind in any media, and any material in any media necessary to support the content of any such document, presentation, or publication.

"Respondent" means a person who is the subject of an Allegation. A Respondent must be an employee of the University or a student at the University, or must have been an employee or a student at the time the Scholarly Misconduct allegedly occurred.

"Responsible Administrator" means the unit administrator who has most immediate responsibility for the Respondent and who is not disqualified from serving as Responsible Administrator by a Conflict of Interest. The RIO shall identify the Responsible

Administrator. If the Responsible Administrator is a dean or other higher-level administrator, the Responsible Administrator may designate a subordinate to act as Responsible Administrator. If the Respondent is a student, the Responsible Administrator shall be the chairperson or appropriate unit head of the department or program with which the student is affiliated. If an Allegation involves multiple Respondents, the RIO shall identify an appropriate individual or individuals to serve as the Responsible Administrator or Administrators.

"Retaliation" means an adverse action taken against an individual who has, in Good Faith, participated in a Misconduct Proceeding (as Complainant, witness, Inquiry Committee member, Investigation Committee member, Counsel, Responsible Administrator, Designated Officer, or RIO) or otherwise cooperated in the review of an Allegation under this policy, where there is a clear causal link between the participation or cooperation and the adverse action. The context in which an adverse action has occurred, including its materiality, is a relevant and important factor to be taken into account in determining whether it constitutes Retaliation.

"RIO" means the University's Research Integrity Officer. The Designated Officer will appoint the RIO.

"Scholarly Misconduct" means Fabrication, Falsification, Plagiarism, or any other practice that seriously deviates from practices commonly accepted in the discipline or in the academic and research communities. Scholarly Misconduct may take many forms, including, but not limited to, Improprieties of Authorship; Abuse of Confidentiality/Misappropriation of Ideas; Deliberate Misrepresentation of Qualifications; Deliberate Material Failure to Comply with Federal, State, or University Requirements Affecting Research; and Violation of Generally Accepted Research Practices. Other common terms such as research fraud, scientific misconduct, or research misconduct are subsumed within Scholarly Misconduct for the purposes of this policy. Scholarly Misconduct does not include appropriative practices in the Creative Arts insofar as they accord with accepted standards in the relevant discipline. Scholarly Misconduct does not include unintentional error or differences in the interpretation or judgment of Research data or results that can be reasonably substantiated by the data or results.

"Self-Plagiarism" means the representation of the same materials as original in more than one publication. Self-Plagiarism can include reuse of one's own words, images, data, or other products of Research without appropriate attribution and/or, in the case in which copyright is held by another person or organization, without receiving appropriate permission. When not in accordance with accepted standards in the relevant discipline, Self-Plagiarism may constitute Scholarly Misconduct.

"Unacceptable Research Practices" means practices that do not constitute Scholarly Misconduct but that violate applicable laws, regulations, or other governmental requirements, or University rules or policies, of which the Respondent had received

notice or of which the Respondent reasonably should have been aware, for proposing, performing, reviewing, or reporting Research or Creative Activities.

II. GENERAL

a. Anonymous Allegations. The University shall review anonymous Allegations under this policy.

b. Confidentiality.

(1) Limited Disclosure of Allegation/Misconduct Proceedings. To the extent possible consistent with a fair and thorough review of an Allegation, disclosure of an Allegation and the resulting Misconduct Proceedings should be limited to those who need to know about them. In amplification, and not in limitation, of the foregoing:

(A) except as otherwise permitted or required by this policy, or as required by law, members of Inquiry Committees and Investigation Committees, the Responsible Administrator, the Designated Officer, the RIO, and University administrators involved in the review of an Allegation under this policy shall make diligent efforts to preserve the confidentiality of the Allegation and resulting Misconduct Proceedings out of respect for the privacy of those involved, especially the Respondent; and

(B) if an Allegation results in an Investigation, the RIO may confidentially advise any person or entity that has plans to publish or disseminate the results of the Research or Creative Activities to which the Allegation relates of the pending Investigation.

(2) Complainant Identity. The University shall make diligent efforts to honor the request of any Complainant that their identity be kept confidential during the University's review of the Allegation under this policy.

(3) Breaches of Confidentiality. The RIO shall be informed immediately of breaches of confidentiality. The RIO will investigate the breach of confidentiality and refer the matter to the appropriate unit administrator for review and such further action, if any, as the unit administrator may deem appropriate.

c. Cooperation. To preserve the integrity of the environment for Research and Creative Activities, members of the University community are expected to cooperate in the review of Allegations under this policy (for example, by providing documents, materials, and testimony, if requested to do so by the RIO).

d. Location and Timeframe of Alleged Scholarly Misconduct. An Allegation may be reviewed by the University under this policy no matter where or when the Scholarly

Misconduct allegedly occurred.

e. Events Requiring Immediate Action. If, at any stage of this policy, the RIO obtains reasonable information about

(1) a possible criminal violation;

(2) an immediate health hazard or other imminent risk of danger to public health or safety or to experimental subjects;

(3) the need to take immediate action to protect the funds or equipment of any governmental or other sponsor of Research or Creative Activities, or to assure compliance with the terms of a contract sponsoring Research or Creative Activities;

(4) the need to take immediate action to protect any Complainant, Respondent, witness, member of an Inquiry Committee or an Investigation Committee, or other person involved in any Misconduct Proceeding;

(5) the need to take immediate action to prevent the loss, destruction, or adulteration of any Evidence;

(6) the need to take immediate action to prevent or stop an imminent or continuing violation of an applicable law, regulation, or other governmental requirement or of a University rule or policy; or

(7) the probable public disclosure of an Allegation or any Misconduct Proceeding;

then the following shall occur:

The RIO shall immediately notify the Designated Officer, the Office of General Counsel, and, if appropriate, the pertinent government official or sponsor of the Research or Creative Activities, and, following consultation with the Office of General Counsel, the RIO shall promptly make recommendations to the Designated Officer as to responsive actions.

Notwithstanding any other provision of this policy, appropriate University administrators shall have authority to take any actions they deem necessary or appropriate to safeguard University personnel, other participants in any Misconduct Proceeding, public health or safety, experimental subjects, sponsors' funds or equipment, Evidence, or the integrity of the research environment. That any such action is taken shall not be deemed to predetermine any finding or conclusion from the University's review of an Allegation under this policy, but any information arising from any such action may constitute Evidence.

f. Notice. Any notice or other document issued pursuant to this policy shall be in writing and shall include an explanation of any decision or opinion stated therein. The RIO shall provide the Respondent copies of all such documents in a timely manner.

g. Interpretation.

(1) Time Periods. Unless otherwise specified in this policy:

(A) the failure to exercise any right granted under this policy within the stated time period shall constitute a waiver of that right;

(B) references to days in this policy shall mean calendar days; and

(C) the RIO may extend timelines and deadlines specified in the policy for good cause, through written notice to all parties.

(2) Plural Usage. The text of this policy generally assumes a single Complainant, Respondent, witness, and Allegation. Where there are multiple Complainants, Respondents, witnesses, or Allegations, this policy shall be construed accordingly.

h. Objections.

(1) Both the Respondent and the Complainant may challenge the RIO's appointment of an Inquiry Committee member or an Investigation Committee member, but only on the basis of asserted Conflict of Interest on the part of the Inquiry Committee member or Investigation Committee member.

A Respondent or Complainant who wishes to file a challenge must do so in writing to the RIO, with accompanying rationale, within five (5) days of receiving notice of the membership of the committee. The RIO is expected to respond to the challenge in writing within five (5) days, either accepting it and taking appropriate action, or rejecting it for stated cause.

(2) Other Objections and Complaints. If the Complainant or Respondent objects to any decision, procedural or substantive, made during the current or any previous Misconduct Proceeding in the review of the Allegation, they may raise that objection:

(A) with the RIO during the Preliminary Assessment;
(B) with the Inquiry Committee during the Inquiry;
(C) with the Investigation Committee during the Investigation; and
(D) with the Provost during an internal appeal under Section IX below.

i. Limitations. Final procedural and substantive determinations made under this policy

by the RIO, the Designated Officer, a Responsible Administrator, an Inquiry Committee, an Investigation Committee, or the Provost cannot be challenged or overturned under any other University policy or procedure.

III. ROLE OF THE RESEARCH INTEGRITY OFFICER (RIO)

The RIO shall coordinate implementation of this policy and shall be responsible for its fair and impartial administration. The RIO shall not be an advocate for the Complainant or the Respondent.

The RIO shall serve as an advisor to Inquiry Committees and Investigation Committees. If so requested, the RIO shall provide logistical support, recruit expert witnesses, and arrange for legal advice to the committees by the Office of General Counsel.

When an Allegation involves Research or Creative Activities supported by a federal funding source, the RIO shall see that the University meets all legal requirements to apprise it of the status of an Inquiry or an Investigation into that Allegation. The RIO also shall report regularly to the Designated Officer on the status of each Inquiry and each Investigation.

The RIO shall identify the Responsible Administrator. The RIO also shall disqualify any Responsible Administrator, and any potential or sitting member of an Inquiry Committee or Investigation Committee, if the RIO determines that such person has a Conflict of Interest before or during the Misconduct Proceedings.

The RIO shall take all reasonable and practical steps to obtain custody of all the Evidence needed to conduct the review of an Allegation under this policy, inventory the Evidence, and sequester it in a secure manner. The RIO may take custody of copies of the Evidence on instruments shared by a number of users, so long as those copies are substantially equivalent to the evidentiary value of the original Evidence. The RIO will give the Respondent copies of, or reasonable supervised access to, the Evidence. The RIO and the RIO's administrative staff will make every effort to ensure that the sequestration of Evidence does not impede the ongoing scholarly activities of faculty, staff, and/or students who are not impacted by the Allegation, unless such activities have been halted or restricted as a result of immediate actions taken under II(e) above.

Misconduct Proceeding Records will be kept in a secure manner, accessible only to the RIO's administrative staff. In cases that terminate following a Preliminary Assessment, the records related to the Preliminary Assessment will be kept for three (3) years. For all other cases, Misconduct Proceeding Records will be kept for at least seven (7) years after the completion of the Misconduct Proceedings to which they relate.

Other RIO responsibilities are set forth elsewhere in this policy.

Provisions regarding the designation, selection, reporting responsibilities, and evaluation of the RIO are set forth in the Appendix.

IV. OTHER INTERNAL OR EXTERNAL PROCEEDINGS

The conduct which forms the basis for an Allegation may also involve possible violation of other University policies or the policies of other institutions, and of external laws and regulations, and may occasion other internal or external adjudicatory proceedings. The following shall govern the handling and sequencing of such proceedings.

a. Other Institution's Review. Another educational or research institution may have the right to review the same Allegation (or a related Allegation) against the same Respondent. In such an event, the RIO shall consult with their counterpart at the other institution to determine whether the University or the other institution is best able to review the Allegation. If the RIO determines that the other institution is best able to review the Allegation, the RIO shall so advise the Designated Officer, who has authority to stay or terminate the University's review of the Allegation based on the review conducted at the other institution, as set forth in Section IV(f) and Section V(d) below. The University and the other institution may also agree to conduct a joint review of the Allegation.

b. Research Collaborator. In the event of an Allegation involving Research or Creative Activities undertaken by a Respondent in collaboration with a colleague at another educational or research institution, the RIO shall advise their counterpart at the other institution confidentially of the Allegation, and ascertain if a similar allegation has been made against the collaborator. If it has, the University, through the RIO, may attempt to cooperate and share information confidentially with the other institution in their respective reviews of the Allegation and of the related allegation involving the collaborator. The University and the other institution may also agree to conduct a joint review of the Allegation and the related Allegation involving the collaborator.

c. Government Investigation. Certain federal funding sources have the option, at any stage in this policy, to initiate an independent investigation of an Allegation involving Research or Creative Activities supported by the funding source. In the event a federal funding source initiates such an investigation, the RIO shall consult the federal funding source regarding its investigation and shall advise the Designated Officer whether the University should suspend its review of the Allegation during the federal funding source's investigation, which the Designated Officer shall have authority to do, as set forth in Section IV(f) below.

d. Criminal Process. In general, University review of an Allegation under this policy may occur in parallel with criminal processes. If an Allegation is also the subject of a criminal investigation or proceeding and the pertinent governmental authority advises the University that the University's review of the Allegation under this policy may prejudice or interfere with that investigation or proceeding, the Designated Officer shall have authority to stay any Misconduct Proceeding until the criminal investigation or proceeding is complete.

e. Civil Litigation. The existence of civil litigation involving the University may necessitate staying a Misconduct Proceeding. The Designated Officer shall make such decisions on a case-by-case basis and promptly report them to the RIO.

f. Designated Officer Stay of Proceedings. The Designated Officer shall have authority to stay any Misconduct Proceeding if, following consultation with the Office of General Counsel and the RIO, the Designated Officer determines that other University procedures mandated by law must be completed prior to the University's further review of an Allegation under this policy. Such governmentally mandated procedures may involve various forms of regulatory action (for example, the removal or clean-up of radioactive or other hazardous materials).

g. Sequencing of Proceedings. Subject to Section IV(f) above and to the University's right to take interim action under any University policy or contract, review of an Allegation under this policy may proceed simultaneously with other internal University proceedings against a Respondent that relate to or arise out of the alleged Scholarly Misconduct.

V. PROCEDURES FOR CONDUCT OF MISCONDUCT PROCEEDINGS – GENERAL

a. Determination of Procedures. Those charged with conducting a Misconduct Proceeding shall determine the procedures that will be followed, provided that:

(1) the procedures they adopt shall be those they deem best suited to achieve a fair and equitable review of the Allegation;

(2) the procedures they adopt shall reflect a spirit of mutual respect and collegiality, and may, therefore, be as informal as they deem appropriate under the circumstances;

(3) in Preliminary Assessments and Inquiries, testimony shall be obtained from witnesses through private interviews rather than through a hearing;

(4) in Investigations, the Investigation Committee may choose to obtain testimony from witnesses through a series of private interviews with witnesses, or at a hearing at which the Complainant and the Respondent shall be invited to be present, provided that the Respondent may, within five (5) days of receiving a notice that the Investigation Committee has decided to conduct private interviews, deliver a notice to the RIO requiring that a hearing be conducted instead of such interviews;

(5) at a hearing, the Respondent and the Complainant shall have the opportunity to raise questions for the Investigation Committee to pose to each witness about the testimony of that witness and the Allegation;

(6) may proceed even when a Complainant declines to appear to give testimony, if

the Investigation Committee determines there is credible Evidence of possible Scholarly Misconduct by the Respondent to justify proceeding with the hearing apart from the Complainant's Allegation;

(7) the Respondent shall have the right to be advised by Counsel in all Misconduct Proceedings;

(8) the Complainant shall have the right to be advised by Counsel in all Misconduct Proceedings;

(9) in all Preliminary Assessments, Inquiries, and Investigations, the Respondent shall have the right to present Evidence and to identify persons who might have Evidence about the Allegation;

(10) formal rules of evidence shall not apply;

(11) the Complainant and the Respondent shall have the right to review documents, reports, and other Evidence submitted in support of their testimony, and the Complainant and the Respondent may provide or be asked to provide corrections of misrepresentations and errors, along with supporting documentation, and may supply additional documentation in response to the Evidence;

(12) each Misconduct Proceeding shall be conducted confidentially and in private except that, in the event of a hearing, the Investigation Committee may decide that it will be open if requested by the Respondent and if permissible under applicable regulations; and

(13) to the extent that a published regulation of a federal funding source requires a specific procedural element in the review and adjudication of an Allegation concerning a proposal to or an award from that federal funding source, that procedural element shall be included in the procedures adopted.

At the start of each Misconduct Proceeding, the RIO shall notify the Complainant and the Respondent of the procedures that will be followed during that Misconduct Proceeding.

b. General Counsel Advice. The Office of General Counsel shall, when so requested, provide legal advice regarding the implementation of this policy and other aspects of the University's review of an Allegation under this policy to the RIO, the Designated Officer, the Responsible Administrator, the Inquiry Committee, the Investigation Committee, the individual hearing an appeal, and the Provost.

c. Respondent Questions. The RIO shall contact the Respondent at the start of each Misconduct Proceeding and attempt to answer any questions about that Misconduct Proceeding.

d. Admission of Scholarly Misconduct. The Designated Officer shall have authority to terminate the University's review of any Allegation under the Procedures upon the admission by the Respondent that Scholarly Misconduct occurred and that the Respondent was responsible for it. The Designated Officer should consider whether the termination of the review of the Allegation would prejudice the University's review of another Allegation against that Respondent or against a different Respondent or the University's ability to assess the extent and consequences of the Scholarly Misconduct and what action should be taken in response to it.

e. Records to Agency. When the alleged Scholarly Misconduct involves Research or Creative Activity supported by a federal funding source, the RIO shall make available to its authorized personnel any Misconduct Proceeding Records that such personnel request.

f. Additional Respondents. If, during the course of any Misconduct Proceeding, additional Respondents are identified, they shall be

(1) Notified immediately;

(2) Provided an opportunity to respond in writing to the notification within fourteen (14) days of receiving notice; and

(3) Incorporated into the ongoing investigation from the point of notification, unless the RIO otherwise determines that a separate investigation is warranted.

VI. ALLEGATIONS OF SCHOLARLY MISCONDUCT AND PRELIMINARY ASSESSMENTS

a. Allegation of Scholarly Misconduct. Any member of the University community or other person who wishes to make an Allegation shall contact the RIO. The Allegation should include sufficient detail and documentation to facilitate the inquiry process.

The RIO shall advise the Designated Officer of all Allegations.

b. Preliminary Assessment. In the event of an Allegation, the RIO shall promptly conduct a Preliminary Assessment to determine whether an Inquiry is warranted. The RIO shall typically complete a Preliminary Assessment within fourteen (14) days of receiving an Allegation.

c. Purpose and Nature of Preliminary Assessment. The Preliminary Assessment is a preliminary process whose purpose is to cull out a clearly erroneous, unsubstantiated, or Bad Faith Allegation before the Respondent is subjected to an Inquiry or an Investigation. Hence, in conducting the Preliminary Assessment, the RIO is not obligated to conduct any interviews on the Allegation or to engage in an exhaustive

review of all Evidence relevant to such an Allegation.

If the RIO determines that Evidence may be needed, the RIO shall notify the Respondent promptly of the Allegation and begin the process of sequestering Evidence. The RIO shall notify the Respondent of their right to be advised by Counsel during all Misconduct Proceedings. The RIO shall provide the Respondent with a copy of this policy, describe the phases of the process and typical timelines, communicate the Respondent's right to challenge the Allegation and explain how to do so, and attempt to answer the Respondent's questions.

Other offices or administrators may be notified and given the facts of the Allegation as appropriate and necessary to facilitating the process. All parties, witnesses, members of committees involved in the process, and administrators and others who are notified of the Allegation on a need to know basis are expected to preserve confidentiality throughout the process.

d. Determination Regarding Inquiry. The RIO shall determine if the Allegation rises to the level of a potential violation of the policy.

(1) Preliminary Assessment - Standard for Determination. The RIO shall determine that an Inquiry is warranted if, in their judgment, (1) the Respondent's alleged conduct could constitute Scholarly Misconduct or Unacceptable Research Practices, and (2) there is credible Evidence to support further review of the Allegation.

(2) If the RIO determines that an Inquiry is warranted, the RIO shall prepare a Preliminary Assessment referral, which explains the basis for the determination. The RIO shall transmit copies of the Preliminary Assessment referral to the Respondent and the Designated Officer. The RIO shall also notify the Complainant of the outcome of the Preliminary Assessment and provide the Complainant with a brief summary of the Preliminary Assessment referral.

The RIO shall provide the Respondent with an opportunity to respond to the Allegation in writing. The Respondent shall have fourteen (14) days from receipt of the Preliminary Assessment referral to submit a written response. The RIO will include the written response in the record for review by the Inquiry Committee.

After completing the Preliminary Assessment referral, the RIO shall immediately initiate an Inquiry.

(3) Inquiry Not Warranted

(A) Preliminary Assessment Report. If the RIO determines that an Inquiry is not warranted, the RIO shall prepare a Preliminary Assessment report that states the basis and rationale for their determination. The RIO shall

provide a copy of the Preliminary Assessment report to the Respondent, the Complainant, and the Designated Officer.

(B) Response from the Respondent. The RIO shall provide the Respondent with an opportunity to respond to the Allegation in writing. The Respondent shall have fourteen (14) days from receipt of the Preliminary Assessment report to submit a written response if they so choose. The RIO will include the written response in the Misconduct Proceeding Record.

(C) End of Review. The RIO's determination that an Inquiry is not warranted shall normally conclude the University's review of that Allegation.

(D) Designated Officer Overrule — Initiation of Inquiry. If the Designated Officer determines that an Inquiry is warranted within fourteen (14) days of receiving the Preliminary Assessment Report, the Designated Officer may issue a decision to the RIO and the Respondent overruling the RIO's determination for stated cause and instructing the RIO to initiate an Inquiry immediately. Upon receiving the decision of the Designated Officer, the RIO shall initiate an Inquiry.

(E) Challenge by Complainant. The Complainant may challenge the RIO's determination that an Inquiry is not warranted in writing. The challenge will be reviewed by the Designated Officer, who may reject it for stated cause or overrule the RIO's determination as described above.

e. Bad Faith. If the RIO concludes that the Complainant acted in Bad Faith in making the Allegation, or that the Complainant or any witness acted in Bad Faith during the Preliminary Assessment, the RIO shall refer the matter for administrative review and appropriate action as set forth in Section XII(a)(1) below.

VII. INQUIRY

a. Committee. If the RIO determines that an Inquiry is warranted, the RIO shall promptly, and normally within thirty (30) days, appoint a Committee of Inquiry of at least three members, chosen for their pertinent expertise. Prior to the appointment of the Committee, each party shall be given an opportunity to challenge potential members, as outlined in Section II(h). While Inquiry Committees will usually be composed of University faculty, they may also include persons other than University faculty when the RIO determines that such persons have experience or expertise useful to the Inquiry. The Inquiry Committee shall select one of its members to act as its chairperson.

b. Charge. The RIO shall draft a Charge to the Inquiry Committee based upon the Preliminary Assessment referral. The RIO shall submit that Charge and a copy of the Preliminary Assessment referral to the Inquiry Committee and the Respondent at the

beginning of the Inquiry. Based on the evidence reviewed during the Inquiry phase, the RIO may modify the initial Charge to the Inquiry Committee.

c. Briefing. Before the Inquiry begins, the RIO and an attorney from the Office of General Counsel shall brief the Inquiry Committee on this policy, other relevant University regulations, and legal and procedural issues that the Inquiry Committee is likely to encounter in conducting the Inquiry.

d. Standard for Determination. The Inquiry Committee shall conduct the Inquiry to determine whether an Investigation is warranted. The Inquiry Committee shall determine that an Investigation is warranted if, in its judgment, an Investigation Committee could reasonably conclude that Scholarly Misconduct occurred. To so determine, the Inquiry Committee must find that the Respondent's alleged conduct could constitute Scholarly Misconduct and that there is credible Evidence to support further review of the Allegation, but must also find that there is sufficient credible Evidence and credible Evidence of such merit that an Investigation Committee could reasonably conclude, in accordance with the criteria in Section VIII(e) below, that Scholarly Misconduct occurred.

e. Purpose and Nature of Inquiry. Like the Preliminary Assessment, the Inquiry is a preliminary process. Its purpose is to cull out an insufficiently substantiated, erroneous, or Bad Faith Allegation before the Respondent is subjected to an Investigation. Although it is expected that the Inquiry will be more comprehensive than the Preliminary Assessment, the Inquiry Committee, like the RIO, is not obligated to conduct any interviews or hearings on the Allegation or to engage in an exhaustive review of all Evidence relevant to the Allegation. When a majority of the members of the Inquiry Committee conclude that an Allegation warrants an Investigation, the Inquiry Committee shall proceed to draft the Inquiry report.

f. Assistance for Committee. The RIO shall secure for the Inquiry Committee such special scientific or technical assistance as it requests to evaluate an Allegation.

g. RIO. The RIO shall not participate in the deliberations of the Inquiry Committee or vote on whether an Investigation is warranted. The Inquiry Committee may request the assistance of the RIO during its deliberations and in the preparation of the Inquiry report, but shall not seek the RIO's opinion as to whether an Investigation is warranted.

h. Timing. Every effort shall be made to complete the Inquiry within sixty (60) days of its inception unless circumstances warrant a longer period. The Designated Officer shall decide whether the delay is warranted. If the Designated Officer determines that it is, the RIO shall notify the Respondent of the reason for the delay and the date on which the RIO expects that the Inquiry will be completed. If the Designated Officer finds the delay unwarranted, the RIO shall work with the Respondent and the Inquiry Committee to expedite completion of the Inquiry, but the Inquiry shall continue until its completion if, despite their diligent efforts, it cannot be finished in sixty (60) days.

The RIO's report about the delay will become part of the Misconduct Proceeding Records.

i. Inquiry Report.

(1) Content. The Inquiry Committee shall prepare an Inquiry report with the following information:

(A) the name and position of the Respondent if the Respondent is an employee of the University, or the name and degree program of the Respondent if the Respondent is a student at the University;

(B) the name and position of the Complainant or other source of the Allegation;

(C) the nature of the alleged Scholarly Misconduct and how it does or does not fit within the definition of Scholarly Misconduct;

(D) a description of the Evidence it reviewed and the sufficiency, credibility, and merit of that Evidence;

(E) summaries of any interviews it conducted; and

(F) a determination of whether an Investigation is warranted.

(2) Deviation from Practice. If the alleged Scholarly Misconduct involves a serious deviation from commonly accepted practices, Evidence of such practices and an analysis of the Allegation in light of such practices shall be included in the Inquiry report.

(3) Investigation Warranted. If the Inquiry Committee determines that an Investigation is warranted, the Inquiry report may be summary in nature, provided that the Inquiry Committee sets forth the Evidence that supports its determination in sufficient detail for the Respondent and an Investigation Committee to understand the basis for the Inquiry Committee's decision.

(4) Investigation Not Warranted. If the Inquiry Committee determines that an Investigation is not warranted, the Inquiry report shall be more comprehensive and shall include a detailed statement of why the Respondent's alleged conduct would not, under the definitions in this policy, constitute Scholarly Misconduct, or why the available Evidence is insufficient, or lacks sufficient credibility or merit, to warrant an Investigation.

(5) Draft Report; Comments. The RIO shall send the Respondent a copy of the draft Inquiry report. The Respondent may return comments on the draft Inquiry report to the RIO within seven (7) days of receipt of the draft Inquiry report. If

the Respondent comments on the draft Inquiry report, the Inquiry Committee shall consider such comments and make any changes in the Inquiry report it deems appropriate in light of such comments. The Respondent's comments shall be included as an appendix to the final Inquiry report.

(6) Designated Officer Opinion on Final Draft Report.

(A) After making any changes it deems appropriate in the draft Inquiry report in light of the Respondent's comments, the Inquiry Committee shall prepare a final draft of the Inquiry report. The RIO shall send the Designated Officer a copy of the final draft of the Inquiry report, attaching any RIO comments regarding procedural questions and concerns. Within twenty-one (21) days after delivery of the final draft Inquiry report to the Designated Officer, the Designated Officer may submit an opinion to the RIO, the Responsible Administrator, and the Inquiry Committee on either or both of the following grounds:

(i) If the Designated Officer, with advice from the Office of General Counsel, finds that the final draft Inquiry report reflects procedural error by the Inquiry Committee in conducting the Inquiry, the Designated Officer shall so inform the RIO and shall identify and explain the Inquiry Committee's procedural error. The Inquiry Committee shall either correct the error before completing the Inquiry and the Inquiry report or shall notify the Designated Officer in, or concurrently with the issuance of, the final Inquiry report that it does not believe a material procedural error occurred.

(ii) If the Designated Officer finds that the Inquiry Committee's determination, as set forth in the final draft Inquiry report, is substantively incorrect because the Evidence does not support the Inquiry Committee's determination, the Designated Officer shall so inform the RIO and shall identify and explain the reason the Designated Officer believes the Inquiry Committee's determination to be in error. The Inquiry Committee shall reconsider its decision in light of the opinion by the Designated Officer. If the Inquiry Committee changes its determination in light of the opinion by the Designated Officer, it shall submit a new draft of the Inquiry report to the Respondent for further comment. If the Inquiry Committee does not change its determination in light of the opinion by the Designated Officer, the Inquiry Committee shall respond to the Designated Officer in completing the Inquiry report and make any changes in the Inquiry report that it deems appropriate in light of the opinion by the Designated Officer.

(B) The opinion by the Designated Officer shall be included as an appendix to the final Inquiry report.

(7) Distribution of Final Report. The RIO shall send the Designated Officer and the Respondent a copy of the final Inquiry report.

j. Determination Regarding Investigation.

(1) Initiation of Investigation. If the Inquiry Committee determines that an Allegation warrants an Investigation, the RIO shall initiate an Investigation.

(2) Designated Officer Overrule - Initiation of Investigation. If the Inquiry Committee determines that an Investigation is not warranted, the Designated Officer may, within fourteen (14) days of receiving the final Inquiry report, issue a decision to the RIO and the Respondent overruling the Inquiry Committee for stated cause and instructing the RIO to initiate an Investigation immediately. Upon receiving the decision of the Designated Officer, the RIO shall initiate an Investigation.

(3) No Investigation. If the Inquiry Committee determines that an Investigation is not warranted and the Designated Officer does not overrule the determination of the Inquiry Committee, the determination of the Inquiry Committee will conclude the University's review of that Allegation, except as provided in Section XI below.

(4) Dissent. Any member of the Inquiry Committee who does not agree with the determination of the majority of the Inquiry Committee may file a dissent to the Inquiry report.

(5) Bad Faith. If the Inquiry Committee concludes that the Complainant acted in Bad Faith in making the Allegation, or that the Complainant or any witness acted in Bad Faith during the Inquiry, the Inquiry Committee shall refer the matter for administrative review and appropriate action, as set forth in Section XII(a)(1) below.

k. Notification. Promptly after completion of the Inquiry, the RIO shall notify the Complainant of its outcome and provide the Complainant with a brief summary of the Inquiry report and the opinion of the Designated Officer, if one was issued.

VIII. INVESTIGATION

a. Committee. The RIO shall make every effort to initiate an Investigation within thirty (30) days of the Inquiry Committee's determination or the decision of the Designated Officer that an Investigation is warranted. The RIO shall appoint an Investigation Committee of not less than three (3) members, chosen for their pertinent expertise. No members of the Inquiry Committee shall serve on the Investigation Committee. Prior to the appointment of the Investigation Committee, each party shall be given an opportunity to challenge potential members, as outlined in II(h) While Investigation

Committees will usually be composed of University faculty, they may also include persons other than University faculty when the RIO determines that such persons have experience or expertise useful to the Investigation. The Investigation Committee shall select one of its members to act as its chairperson.

b. Notifications.

(1) Notification - Internal. The RIO shall notify the Designated Officer and the Office of General Counsel of the initiation of the Investigation.

(2) Notification - Funding Source. When the alleged Scholarly Misconduct involves Research or Creative Activities supported by an external (non-University) funder, the RIO shall also notify the source of the funding of the Investigation before the start of the Investigation. Such notification shall include the name of the Respondent, the general nature of the Allegation, and the relevant grant application, grant number, or other identification, if applicable.

c. Charge. The RIO shall draft a Charge to the Investigation Committee based on the Inquiry report and the opinion of the Designated Officer, if one was issued. The RIO shall submit a copy of that Charge, the Preliminary Assessment referral, the Inquiry report, and the overruling decision of the Designated Officer, if one was issued, to the Investigation Committee and the Respondent at the beginning of the Investigation.

d. Briefing. Before the Investigation begins, an attorney from the Office of General Counsel and the RIO shall brief the Investigation Committee on this policy, other relevant University regulations, and legal and procedural issues that the Investigation Committee is likely to encounter in conducting the Investigation.

e. Standard for Determination. The Investigation Committee shall determine if Scholarly Misconduct occurred, if the Respondent was responsible for it, and the extent, gravity, and actual and potential consequences of the Scholarly Misconduct. To conclude that Scholarly Misconduct occurred, a majority of the members of the Investigation Committee must find:

(1) that there was a significant departure from accepted practices of the relevant research community; and

(2) that the Scholarly Misconduct was committed intentionally, knowingly, or recklessly; and

(3) that the Allegation was proven by a Preponderance of the Evidence.

f. Evidence Review. The Investigation Committee shall examine all Evidence that it deems pertinent to the Allegation. At its discretion, the Investigation Committee may also inspect laboratories and examine laboratory specimens, materials, procedures,

and methods.

The Respondent will be provided copies of, or supervised access to, all Evidence made available to the Investigation Committee.

g. Testimony.

(1) Interviews or Hearing. In accordance with V(A)(4), the Investigation Committee may conduct private interviews or a hearing with the Complainant, the Respondent, and other persons, if any, who have material information regarding the Allegation.

(2) Transcript. The RIO shall arrange for the preparation of a transcript of each witness's interview or hearing testimony and shall send the transcript to the witness for comment or correction. The witness shall have seven (7) days after receipt of the transcript to deliver comments on, and corrections of any errors in, the transcript to the RIO. Both the transcript and any such comments and corrections shall be made part of the Misconduct Proceeding Records. The RIO shall give the Respondent a copy of the corrected transcript of any interview or hearing testimony.

h. Assistance for Committee. If the Investigation Committee decides that it needs special scientific or technical expertise to evaluate an Allegation, it shall so advise the RIO, who shall secure for the Investigation Committee the assistance that it requests.

i. RIO. The RIO shall not participate in the deliberations of the Investigation Committee or vote on whether Scholarly Misconduct occurred. The Investigation Committee may request the assistance of the RIO during its deliberations and in the preparation of the Investigation report, but shall not seek the RIO's opinion as to whether Scholarly Misconduct occurred.

j. Timing. The Investigation Committee shall use its best efforts to complete the Investigation within one hundred and twenty (120) days of its inception.

(1) Extension. If the Investigation cannot be completed in that period, the RIO may request an extension from the Designated Officer, in which event the RIO shall notify the Respondent of the reason for the delay and the date on which the RIO expects that the Investigation will be completed. The RIO's report about the delay shall be included in the Misconduct Proceeding Records. If the alleged Scholarly Misconduct involves Research or Creative Activities supported by a federal funding source, the RIO shall notify it of the delay, request an extension, explain why the extension is necessary, and provide a progress report of the Investigation Committee's activities to date and an estimate of the completion date of the Investigation.

(2) Notice of Stay. If the Investigation is stayed and the alleged Scholarly

Misconduct involves Research or Creative Activities supported by a federal funding source, the RIO shall promptly inform it of the date and expected duration of the stay, and of the reason for staying the Investigation.

k. Investigation Report.

(1) Content. The Investigation Committee shall prepare a written Investigation report. It shall include:

(A) the name and position of the Respondent if the Respondent is an employee of the University or the name and degree program of the Respondent if the Respondent is a student at the University;

(B) the relevant application or grant number, if the alleged Scholarly Misconduct involves sponsored Research or Creative Activities;

(C) a description of the Allegation and the name of the Complainant, if known and not held in confidence;

(D) a summary of the Evidence reviewed, including, but not limited to, an account of how and from whom it was obtained;

(E) a transcript of each interview or hearing conducted during the Investigation;

(F) for each separate Allegation, an analysis of any explanation offered by the Respondent and the Evidence in support thereof;

(G) an analysis of each separate Allegation pursuant to the standards set forth in Section VIII(e) above;

(H) in an Allegation of serious deviation from accepted practices, a description of the Evidence regarding the accepted practices in the discipline and an analysis of the Allegation in light of such practices; and

(I) a copy of this policy and any other University policies and procedures relevant to the Investigation.

(2) Scholarly Misconduct Finding. If the Investigation Committee finds that Scholarly Misconduct occurred, the Investigation report must include:

(A) the Investigation Committee's determination that:

(i) there was a significant departure from accepted practices of the relevant research community; and

(ii) the Scholarly Misconduct was committed intentionally, knowingly, or recklessly; and

(iii) the Allegation was proven by a Preponderance of the Evidence**.**

(B) a determination whether any part of the Research Record needs correction or retraction as a result of the finding of Scholarly Misconduct, and, if so, an explanation of that correction or retraction.

(3) No Scholarly Misconduct Found. If the Investigation Committee does not find that Scholarly Misconduct occurred, it shall explain the reasons for its decision in the Investigation report, with specific reference to the pertinent criteria set forth in Section VIII(e) above.

(4) Draft Report; Comments. The RIO shall send the Respondent a copy of the draft Investigation report. The Respondent may return comments on the draft Investigation report to the RIO within thirty (30) days of receipt of the draft Investigation report. If the Respondent comments on the draft Investigation report, the Investigation Committee shall consider such comments and make any changes in the Investigation report it deems appropriate in light of such comments. The Respondent's comments shall be included as an appendix to the final Investigation report.

(5) Designated Officer Opinion on Draft Report.

(A) After making any changes it deems appropriate in the draft Investigation report in light of the Respondent's comments, the Investigation Committee shall prepare a revised draft of the Investigation report. The RIO shall send the Designated Officer a copy of the draft of the Investigation report, attaching any RIO comments regarding procedural questions and concerns. Within thirty (30) days after delivery of the draft Investigation report to the Designated Officer, the Designated Officer may submit an opinion to the RIO, the Responsible Administrator, and the Investigation Committee on either or both of the following two grounds:

(i) If the Designated Officer, with advice from the Office of General Counsel, finds that the draft Investigation report reflects procedural error by the Investigation Committee in conducting the Investigation, the Designated Officer shall so inform the RIO and shall identify and explain the Investigation Committee's procedural error.

The Investigation Committee shall either correct the error before completing the Investigation and the Investigation report or shall notify the Designated Officer in, or concurrently with the issuance of, the final Investigation report that it does not believe a material

procedural error occurred.

(ii) If the Designated Officer finds that the Investigation Committee's determination, as set forth in the draft Investigation report, is substantively incorrect because the Evidence does not support the Investigation Committee's determination, then the Designated Officer shall so inform the RIO and shall identify and explain the reason the Designated Officer believes the Investigation Committee's determination to be in error. The Investigation Committee shall reconsider its decision in light of the opinion by the Designated Officer. If the Investigation Committee changes its determination in light of the opinion by the Designated Officer, it shall submit a new draft of the Investigation report to the Respondent for further comment. If it does not change its determination in light of the opinion by the Designated Officer, the Investigation Committee shall respond to the opinion by the Designated Officer in completing the Investigation report and make any changes in the Investigation report that it deems appropriate in light of the opinion by the Designated Officer.

(B) In most cases, the Investigation Committee should be expected to finalize the Investigation report within thirty (30) days of receiving the Designated Officer's opinion.

(C) The opinion by the Designated Officer shall be included as an appendix to the final Investigation report.

(6) Dissent. Any member of the Investigation Committee who does not agree with the determination of the majority of the Investigation Committee may file a dissent to the Investigation report.

l. Bad Faith. If the Investigation Committee concludes that the Complainant acted in Bad Faith in making the Allegation, or that the Complainant or any witness acted in Bad Faith during any Misconduct Proceeding, the Investigation Committee shall refer the matter for administrative review and appropriate action as set forth in Section XII(a)(1) below.

m. Final Report; Provost Overrule.

(1) Copy to Provost. The Designated Officer shall send the Provost a copy of the final Investigation report.

(2) Overrule; New Investigation. If the Provost believes the Investigation Committee's determination is incorrect, the Provost may, within fourteen (14) days of receiving the final Investigation report, issue a written decision to the Designated Officer and the RIO overruling the Investigation Committee for stated cause and instructing the RIO to impanel another Investigation

Committee immediately.

(3) Second Investigation Committee. If a second Investigation Committee is impaneled, it shall conduct a new Investigation. Subject to the Respondent's right to appeal pursuant to Section IX below, the second Investigation Committee's determination shall be binding.

n. Distribution of Final Report; Comments. The RIO shall send a copy of the final Investigation report to the Respondent after the Provost has had an opportunity to review and overrule the Final Report as appropriate. The Respondent may deliver comments on the Investigation report to the RIO within fourteen (14) days of the delivery of the final Investigation report to the Respondent. The RIO shall include any such comments in the Misconduct Proceeding Records.

o. Notifications.

(1) Complainant. Promptly after completion of the Investigation, the RIO shall notify the Complainant of its outcome and provide the Complainant with a brief summary of the Investigation report, including those portions of the Investigation report that address the Complainant's role and testimony, if any, in the Investigation.

(2) Federal Support. When the alleged Scholarly Misconduct involves Research or Creative Activities supported by a federal funding source, the RIO shall submit the Investigation report to it. It may accept the Investigation report, ask for clarification or additional information, which shall be provided by the RIO, or commence its own independent investigation.

(3) Other Funding Source. When the alleged Scholarly Misconduct involves Research or Creative Activities supported by a non-federal funding source, the RIO shall notify it of the outcome of the Investigation promptly after the completion of the Investigation and provide it with a brief summary of the Investigation report and such other information, if any, as it may request in response to the RIO's notification.

IX. APPEAL

a. Appeal Rights. All Respondents who are found to have committed Scholarly Misconduct have the right to an internal University appeal. During appellate proceedings, no disciplinary proceeding will be commenced as a consequence of the finding of Scholarly Misconduct. In addition, a Respondent who has applied for or received support from a federal funding source for the Research or Creative Activities in relation to which the Scholarly Misconduct occurred has the right under certain circumstances to appeal a finding of Scholarly Misconduct by an Investigation Committee to that federal funding source.

During appellate proceedings, appropriate University administrators may initiate on

an interim basis actions they deem necessary to safeguard University personnel, other participants in any Misconduct Proceeding, public health or safety, experimental subjects, sponsors' funds or equipment, Evidence, or the integrity of the research environment. These actions do not indicate that a conclusion has been reached from the University's review process, and such actions may be revised, revoked, or made permanent upon the confirmation of a final outcome once appellate proceedings have concluded.

b. External Appeal Record. If the Respondent appeals a finding of Scholarly Misconduct by an Investigation Committee to a federal funding source, the RIO shall attempt to obtain copies of all documents filed in that appeal.

c. Procedure.

(1) Internal Appeal. The Respondent may appeal a finding of Scholarly Misconduct to the RIO within thirty (30) days of the date of the final Investigation report. The appeal must be in writing and must set forth the substantive or procedural reasons the Respondent believes the finding of Scholarly Misconduct is incorrect. The RIO will submit the appeal to the Provost for decision.

(2) Review and Recommendation. The Provost may appoint a University faculty member or administrator who does not have a Conflict of Interest and who has not previously been involved in the review of the Allegation under this policy to review the Misconduct Proceeding Records and the appeal and make recommendations to the Provost.

(3) Request for Additional Information. The Provost, or the Provost's designee, may request further information about the Misconduct Proceedings in writing from the RIO. A copy of such information shall be provided to the Respondent.

(4) Basis for Decision. The Provost's decision on the appeal shall be based on the Misconduct Proceeding Records, as clarified or supplemented by the RIO in response to any request for further information about the Misconduct Proceedings, the Respondent's appeal, and, if available, the recommendations from Section IX(c)(2) above.

d. New Evidence. If the RIO learns of previously unavailable material Evidence relevant to the finding of Scholarly Misconduct during the appeal, the RIO shall inform the Provost and the Respondent of the new Evidence. If the Provost concurs that the new Evidence could materially affect the finding of Scholarly Misconduct, the Provost shall remand the finding to the Investigation Committee that made the finding for its consideration of the new Evidence. The Investigation Committee shall notify the Provost within fourteen (14) days that it finds the new Evidence immaterial to its prior finding or that it wishes to reopen the matter. The Provost may extend this period for good cause by notice to the Respondent and the RIO.

e. Decision. The Provost shall issue a decision and rationale affirming or reversing the finding of Scholarly Misconduct within thirty (30) days after the submission of the appeal to the RIO. The Provost may extend this period for good cause by notice to the Respondent and the RIO.

X. FINAL RESOLUTION AND OUTCOME

a. Exoneration. If the Preliminary Assessment results in a determination that an Inquiry is not warranted, or if the Inquiry Committee decides that an Investigation is not warranted, or if an Investigation Committee does not find that Scholarly Misconduct has occurred, or if a finding of Scholarly Misconduct is reversed on appeal, the Responsible Administrator and the RIO shall make diligent efforts, if requested by the Respondent, to restore the Respondent's reputation. These efforts shall be undertaken in consultation with the Respondent, provided that they shall: (1) be reasonable and practicable under the circumstances and proportionate to the damage to the Respondent's reputation as a result of the Allegation; (2) be consistent with applicable federal funding source expectations, if the Research or Creative Activities which were the subject of the Allegation were supported by that federal funding source; and (3) not affect the University's ability to take action against the Respondent for Unacceptable Research Practices which come to the University's attention as a result of the review of the Allegation under this policy.

b. Scholarly Misconduct Found.

(1) Actions. After all appeals have been decided, or the opportunity for an appeal has expired, and there is a final decision that Scholarly Misconduct has occurred:

(A) the Responsible Administrator, after consultation with the Provost, shall take appropriate actions in response to the finding of Scholarly Misconduct. Such actions may include:

(i) the imposition of sanctions within the authority of the Responsible Administrator and initiating University disciplinary proceedings appropriate to the finding of Scholarly Misconduct pursuant to applicable University policies, procedures, and contracts; or

(ii) referral of the finding of Scholarly Misconduct to another administrator who has authority to impose sanctions and initiate disciplinary proceedings.

(B) the RIO, after consultation with the Office of General Counsel and the Provost, shall attempt to correct, and/or seek retraction of, any part of the Research Record or other relevant records materially affected by the Scholarly Misconduct. The Respondent will not interfere with the RIO's

efforts in these regards. Those affected by the Scholarly Misconduct are permitted to share this information with their colleagues.

(2) Disciplinary Action. The University views Scholarly Misconduct as grounds for disciplinary action pursuant to applicable University policies, procedures, and contracts. Disciplinary action may include suspension and/or termination of employment of a faculty or staff member found responsible for Scholarly Misconduct. Disciplinary action may include termination of enrollment and/or degree revocation for a student found responsible for Scholarly Misconduct. Disciplinary action may be challenged or grieved according to relevant University policies.

(3) Government Sanctions. In addition to sanctions imposed by the University, certain federal funding sources may impose sanctions of their own, if the Scholarly Misconduct involved Research or Creative Activities which they supported.

(4) Serious Deviation. The University may take action, including disciplinary action, in response to a finding of Scholarly Misconduct based on a serious deviation from accepted practices even if another Allegation of Scholarly Misconduct against the same Respondent has not been sustained and the University has an obligation under Section X(a) above with respect to the unsustained Allegation.

c. New Evidence. After all appeals have been decided, or if the opportunity for appeal has expired, and there is a final decision that Scholarly Misconduct has occurred, if the Respondent learns of previously unavailable material Evidence relevant to the determination of Scholarly Misconduct, within thirty (30) days from the appeal decision or thirty (30) days from the date the opportunity to appeal has expired, the Respondent shall send that Evidence to the RIO with an explanation of its origin and importance. The RIO shall submit the new Evidence to the Investigation Committee that conducted the Investigation of the Scholarly Misconduct. The Investigation Committee shall promptly consider the new Evidence and notify the Provost of its impact on its finding of Scholarly Misconduct and on its Investigation report. Based on the new Evidence and the information from the Investigation Committee, the Provost may reverse or affirm the previous finding of Scholarly Misconduct, or remand the matter to the Investigation Committee to conduct a new Investigation in light of the new Evidence. The Provost shall issue that decision with stated rationale within thirty (30) days of receiving the notice from the Investigation Committee, but may extend this period for good cause by notice to the Respondent and the RIO.

d. Termination. If the Designated Officer terminates the review of any Allegation under Section V(d), an explanation for such termination shall be included in the Misconduct Proceeding Records.

XI. UNACCEPTABLE AND QUESTIONABLE RESEARCH PRACTICES

a. Referral from Proceedings. An Inquiry Committee may find that while a Respondent's conduct does not warrant an Investigation, it nevertheless constitutes an Unacceptable Research Practice or Questionable Research Practice. Similarly, an Investigation Committee may find that while a Respondent's conduct does not constitute Scholarly Misconduct, it nevertheless constitutes an Unacceptable Research Practice or a Questionable Research Practice. Any such finding shall be referred to the appropriate administrator for review. The administrator may deem further action appropriate, including, in the case of Unacceptable Research Practices, disciplinary action pursuant to applicable University policies, procedures, and contracts. Disciplinary action may be challenged or grieved according to relevant University policies.

b. Discovery and Report. Unacceptable Research Practices or Questionable Research Practices may also be discovered in circumstances other than a review of an Allegation under this policy. When that happens, the alleged Unacceptable Research Practice or Questionable Research Practice should be referred to the appropriate administrator for review and such further action, if any, as the administrator may deem appropriate, including, in the case of Unacceptable Research Practices, disciplinary action pursuant to applicable University policies, procedures, and contracts, including procedures for challenging or grieving disciplinary action.

XII. BAD FAITH

a. Complainant or Witness.

(1) Referral for Action. If the RIO, an Inquiry Committee, or an Investigation Committee concludes that a Complainant or witness who is a University employee or student acted in Bad Faith in a Misconduct Proceeding, the matter shall be referred to the appropriate administrator for review. The administrator may deem further action appropriate, including disciplinary action.

(2) Discipline. The University views Bad Faith by a Complainant or witness who is a University employee or student as grounds for disciplinary action pursuant to applicable University policies, procedures, and contracts.

XIII. PROTECTING PARTICIPANTS IN MISCONDUCT PROCEEDINGS

a. Protection of Position and Reputation. The University shall make diligent efforts to protect the position and reputation of each individual who has, in Good Faith, participated in a Misconduct Proceeding as a Complainant, witness, Inquiry Committee member, Investigation Committee member, Counsel, Responsible Administrator, Designated Officer, or RIO, or who has otherwise cooperated in the review of an Allegation under this policy. These efforts shall be:

(1) reasonable and practical under the circumstances;

(2) proportionate to the risk to the individual's position and reputation; and

(3) consistent with applicable funder expectations, if the Research or Creative Activities, which were the subject of the Allegation, were supported by a federal funding source.

b. Retaliation.

(1) Prohibition. University employees and students shall not engage in or threaten Retaliation.

(2) Referral for Action. If the RIO receives a complaint or report of Retaliation or threatened Retaliation by a University employee or student, the RIO shall refer the matter to the appropriate administrator for review and such action, if any, as the administrator may deem appropriate, including disciplinary action.

(3) Discipline. The University views Retaliation by a University employee or student as grounds for disciplinary action pursuant to applicable University policies, procedures, and contracts.

(4) Protection against Retaliation. The University shall make diligent efforts to provide protection against Retaliation by individuals who are not University employees or students. These efforts shall be reasonable and practical under the circumstances and, if the Research or Creative Activities which were the subject of the Allegation whose review led to the Retaliation were supported by a federal funding source, shall be consistent with applicable funder expectations.

APPENDIX

Appointment and Evaluation of the Designated Officer and the Research Integrity Officer

I. APPOINTMENT OF THE DESIGNATED OFFICER

1. The Designated Officer shall be appointed by the Provost, and shall serve at the pleasure of the Provost.

2. The Designated Officer shall report to the Provost and shall keep the Provost informed about the progress of cases under this policy and about the educational and other activities of the RIO's office.

3. Should the Designated Officer be unable to fulfill the obligations and duties of the Designated Officer under this policy with respect to a particular Allegation due to conflicts of interest or other reasons, the Provost shall appoint a replacement Designated Officer.

II. APPOINTMENT OF THE RIO

1. The RIO shall be appointed by the Designated Officer, and shall serve at the pleasure of the Designated Officer.

2. The RIO shall report to the Designated Officer and shall keep the Designated Officer informed about the progress of cases under this policy and about the educational and other activities of the RIO's office. The RIO shall also perform such other duties as are assigned the RIO under this policy.

3. Should the RIO recuse himself or herself from the RIO's duties under this policy with respect to a particular Allegation, the Designated Officer shall appoint a replacement RIO.

III. EVALUATION OF THE RIO

1. The RIO shall submit a report annually to the Designated Officer which shall set forth the number of cases handled by the RIO's office during the previous academic year and their outcomes, along with information on the educational and other activities of the RIO's office during that academic year.

2. The Designated Officer shall evaluate the performance of the RIO biennially, pursuant to criteria established by the Designated Officer.

IV. ADVISORY COMMITTEE TO THE RIO

1. The College-level Research Integrity Officers shall serve as an advisory resource for the RIO on issues relating to Scholarly Misconduct and this policy.