WCU
WEST CHESTER
UNIVERSITY

UNIVERSITY POLICY

Research Misconduct Policy

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Purpose and Scope

A university community has the obligation to conduct research and/or scholarly work and communicate results using the highest standards and ethical practices. West Chester University of Pennsylvania (WCU) is responsible for promoting academic practices that prevent Research Misconduct and for developing policies and procedures for dealing with Allegations of Research Misconduct. This policy applies to Allegations of Research Misconduct (i.e., fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in the reporting of research results) as required under Federal Regulations including but not limited to Titles 42 and 45 of the Code of Federal Regulations (CFR). This policy will equip WCU to respond to any Allegations of Research Misconduct by WCU faculty, managers, administrators, staff, and/or students. This policy applies to all research and scholarship endeavors conducted by the university community, irrespective of the funding source. The purpose of this policy is to provide the members of the WCU community a framework for reporting suspected incidents of Research Misconduct, as well as investigating and adjudicating cases of Research Misconduct in a fair and consistent manner pursuant to applicable federal and state law as well as any Collective Bargaining Agreements (CBA) such as but not limited to the CBA between the Association of Pennsylvania State College and University Faculties (APSCUF) and the Pennsylvania State System of Higher Education (PASSHE), of which WCU is a member university. The language in this policy is taken directly from 42 CFR 93 including definitions of the terms Inquiry and Investigation (Section O: Federal Regulations and Collective Bargaining Agreement Terms Supersede).

Policy Statement

Unethical conduct in research and scholarship strikes at the heart of two of these principles – scholarship and integrity – and undermines the community's commitment to excellence.

It is generally recognized in academia that an accusation of misconduct in scholarship and/or research is among the most serious charge that can be leveled against a scholar/researcher. Consequently, it is highly advised that any individual contemplating such an accusation fully consider the gravity of the accusation and its consequences and make every reasonable effort to avoid lodging charges that lack a substantial element of truth. Frivolous or false accusations may constitute grounds for disciplinary action against the accuser consistent with this policy and any applicable CBA. This policy applies to Allegations of Research Misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results) and failure to comply with Federal regulations and WCU policies for protection of researchers, human subjects, the public, or the welfare of laboratory animals. It does not include honest error, honest differences in interpretations of data, or disputes about authorship (see 42 CFR 93, 2005).

I. Roles

A. Allegation(s)

Allegations of Research Misconduct may be filed with the university by anyone, whether associated with the university or not. Allegations should be filed with the Research Integrity Officer (RIO) and Complainants should hold credible evidence to support the accusation. The Associate Provost for Research and Creative Activities is the Research Integrity Officer (RIO) at West Chester University of Pennsylvania. They will have primary responsibility for implementation of the institution's policies and

procedures on Research Misconduct. Allegations of Research Misconduct are serious charges and the filing of such Allegations not made in good faith are an abuse of the procedures set forth in this policy and may result in disciplinary action. Complainants are encouraged to consult initially with a supervisor, department chair, or dean before bringing an allegation of Research Misconduct. If Allegations are made against more than one individual, a separate decision will be reached regarding each individual.

B. Research Integrity Officer (RIO)

Responsibilities of the RIO include the following related to allegations of Research Misconduct:

- Consult confidentially with any person(s) uncertain about whether to submit an Allegation of Research Misconduct;
- Assess each Allegation of Research Misconduct to determine whether it falls within the definition of Research Misconduct and warrants an Inquiry, as defined below;
- Sequester research data and evidence pertinent to the Allegation of Research Misconduct and maintain it securely;
- Provide confidentiality to those involved in Research Misconduct proceedings;
- Notify the Respondent and provide opportunities for them to review/ comment/respond to the Allegations, evidence, and Inquiry Committee, as defined below, reports;
- Inform Respondent(s), Complainant(s), and witnesses of the procedural steps in the Research Misconduct proceeding;
- Convene an Inquiry Committee to review the Allegation of Research Misconduct;

- Ensure each person involved in handling an Allegation of Research Misconduct does not have an unresolved personal, professional, or financial conflict of interest;
- Take all reasonable and practical steps to protect or restore the positions and reputations of good faith Complainants, witnesses, and Inquiry Committee members and counter potential or actual retaliation against them by Respondents or other institutional members;
- Keep the Deciding Official and others who need to know (e.g., Dean, Labor Relations) apprised of the progress of the review of the Allegation of Research Misconduct;
- Notify and make reports to the Office of Research Integrity (ORI) as required by federal regulations, if applicable, or Grantor if required by law or contract;
- Maintain records of the Research Misconduct proceeding and make them available to ORI, or Grantor if required by law or contract; and
- Conduct all of the above actions in accordance with federal and state laws and, in the absence of such, in conformity with university policy and any applicable CBAs.

C. Complainant

The Complainant is responsible for making Allegations in good faith, maintaining confidentiality, and cooperating with the Inquiry and Investigation. As a matter of good practice, the Complainant should be sent a summary of the Allegation for correction, addition, or deletion.

D. Respondent

The Respondent will be informed of the Allegation(s) if an Inquiry is open or in order to gain additional information to determine if an Inquiry is necessary. The Respondent will

also be notified in writing of the final determination and resulting actions as required by their CBA. The Respondent will also be permitted a union representative as outlined within their CBA.

Inquiries and Investigations will be conducted in a manner that will ensure fair treatment of the Respondent in the Inquiry or Investigation and confidentiality to the extent possible without compromising public health and safety or thoroughly carrying out the Inquiry or Investigation. All Inquiries and Investigations, shall be consistent with any applicable CBA terms, to the extent that they do not conflict with federal or state law.

The Respondent is responsible for maintaining confidentiality and cooperating with the conduct of an Inquiry and/or Investigation. The Respondent is entitled to:

- A good faith effort from the RIO to notify the Respondent in writing when an inquiry is open;
- Be notified of the outcome of an Inquiry, and receive a copy of the inquiry report that includes a copy of, or refers to federal regulations, if applicable, and a copy of the institution's policies and procedures on Research Misconduct;
- Be informed of the Allegation(s) when an Inquiry is opened and be notified in writing of any new Allegation(s), not addressed in the Inquiry or in the initial notice of Investigation, within a reasonable time after the determination to pursue the Allegation(s);
- Be interviewed during the Investigation, have the opportunity to correct the interview summary, and have the corrected summary included in the record of the Investigation;
- Provide witnesses (who have been reasonably identified by the Respondent as having information on relevant aspects of the Investigation) to testify on their

behalf, have the summary of testimony provided to the witness for correction, and have the corrected summary included in the record of investigation; and

- Receive a copy of the draft Investigation report and, concurrently, a copy of, or supervised access to, the evidence on which the report is based, and be notified that any comments must be submitted within thirty (30) days of receiving the draft investigation report and that the comments will be considered by the institution and addressed in the final report.

The Respondent should be given the opportunity to admit that Research Misconduct occurred and that they committed the Research Misconduct. With the advice of the RIO and institutional legal counsel, the Deciding Official may terminate the institution's review of an Allegation(s) that has been admitted to if the institution's acceptance of the admission and any proposed settlement is approved by ORI or other Grantor.

E. Deciding Official

The Deciding Official (DO) at WCU is the Provost or their designee. They will receive the Inquiry report and, after consulting with the RIO, decide whether an Investigation is warranted pursuant to federal regulations, as applicable. Any finding that an Investigation is warranted must be made in writing by the DO and must be provided to the University President, University Legal Counsel and ORI, together with a copy of the inquiry report meeting the requirements of federal regulations, if applicable, within thirty (30) days of the finding. If it is found that an Investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the Inquiry is retained for at least 7 years after termination of the Inquiry, so that ORI or any other Grantor may assess the reasons why the institution decided not to conduct an Investigation.

The DO will receive the Investigation report and, after consulting with the RIO, University President, System Legal Counsel, and other appropriate officials, decide the

extent to which WCU accepts the findings of the Investigation. If Research Misconduct is found, the DO will decide what, if any, institutional administrative actions are appropriate. The DO shall ensure that the final investigation report, the findings of the RIO, the Inquiry and investigation committee, and a description of any pending or completed administrative action are provided to ORI, as required by federal regulations, if applicable, or other Grantor if required by law or contract.

II. General Policies and Principles

A. Responsibility to Report Misconduct

All Institutional Members will, in good faith, report observed, suspected, or apparent Research Misconduct to the RIO.

Any university employee who receives an Allegation of Research Misconduct must report it immediately to the RIO. If an individual is unsure whether a suspected incident falls within the definition of Research Misconduct, they may meet with or contact the RIO to discuss the alleged Research Misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of Research Misconduct, the RIO will refer the individual or Allegation to other offices or officials within WCU with responsibility for resolving the problem.

At any time, an Institutional Member may have confidential discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting Allegations.

B. Cooperation with Research Misconduct Proceedings

Institutional Members will cooperate with the RIO and other institutional officials in the review of Allegations and the conduct of Inquiries and Investigations. Institutional Members, including Respondents, have an obligation to cooperate with the proceedings by providing evidence relevant to Research Misconduct Allegations to the RIO or other institutional officials.

C. Confidentiality

The RIO shall, as required by federal and sponsor regulations, (1) limit disclosure of the identity of Respondents and Complainants to those who need to know in order to carry out a thorough, competent, objective, and fair Research Misconduct proceeding; and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a Research Misconduct proceeding. The RIO should use confidentiality agreements or other mechanisms to ensure that all recipients do not make any further disclosure of identifying information.

D. Protecting Complainants, Witnesses, and Committee Members

Institutional Members will not retaliate in any way against Complainants, witnesses, or committee members. Institutional Members should immediately report any alleged or apparent retaliation against Complainants, witnesses or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation. Disciplinary action will be taken for retaliation.

As requested, and as appropriate, the RIO and other institutional officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in Research Misconduct, but against whom no finding of Research Misconduct is made.

During the Research Misconduct proceedings, the RIO is responsible for ensuring that Respondents receive all the notices and opportunities and the applicable policies and procedures of the institution. If the Inquiry and/or Investigation committees find the charge of misconduct to be unfounded, the report and supporting evidence shall be forwarded to the RIO and shall be kept in a secure location for seven (7) years following the conclusion of the Investigation. Both the appropriate Dean and the RIO will undertake diligent efforts to restore the Respondent's reputation with regard to the unsupported Allegations. All individuals related to the review process, the Provost/their designee, the President/their designee, Academic Dean(s), and Chairperson(s) of the researcher's department will be notified that the charge of misconduct in research was unfounded. The positions and reputations of persons who make Allegations in good faith shall also be protected.

E. Interim Administrative Actions and Notifying the Office of Research Integrity of Special Circumstances

Throughout the Research Misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal, state, or private funds and equipment, or the integrity of the supported research process. In the event of such a threat, the RIO will, in consultation with other institutional officials and the Grantor, pursuant to legal or contractual requirements, take appropriate interim action to protect against any such threat consistent with applicable laws and the CBA. Interim action might include, but not be limited to, additional monitoring of the

research process and the handling of federal funds and equipment, reassignment of personnel and/or of the responsibility for the handling of federal funds and equipment, and additional review of research data and results including the potential of delaying research publication. The RIO shall, at any time during a Research Misconduct proceeding, notify the ORI or the Grantor if required to do so by law or contract, immediately if they have reason to believe that any of the following conditions exist:

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

F. Conducting the Assessment and Inquiry

1. Assessment of Allegations

Upon receiving an Allegation of Research Misconduct, the RIO will immediately assess the Allegation to determine whether it is sufficiently credible and specific so that potential evidence of Research Misconduct may be identified, whether it is within the jurisdictional criteria of any federal regulations, and whether the Allegation falls within

the definition of Research Misconduct in this policy and any federal regulations. An Inquiry must be conducted if these criteria are met.

The assessment period should be brief; preferably concluded within a week. In conducting the assessment, the RIO need not interview the Complainant, Respondent, or other witnesses, or gather data beyond any that may have been submitted with the Allegation, except as necessary to determine whether the Allegation is sufficiently credible and specific so that potential evidence of Research Misconduct may be identified. Both formal and informal approaches will provide the RIO with the flexibility to assess the merits of the Allegations. The RIO shall, on or before the date on which the Respondent is notified of the Allegation, obtain research records and evidence needed to conduct the Research Misconduct proceeding.

2. Initiation and Purpose of the Inquiry

If the RIO determines that the criteria for an Inquiry are met, they will initiate the Inquiry process. The purpose of the Inquiry process is to conduct an initial review of the available evidence to determine whether to conduct an Investigation. An Inquiry does not require a full review of all the evidence related to the Allegation. The purpose of the Inquiry is not to reach a final conclusion about whether misconduct occurred or who was responsible but to make a recommendation to the Deciding Official of whether an Investigation is required. The Deciding Official reserves the right to make a final decision as to whether an Investigation is required.

3. Notice to Respondent; Sequestration of Research Records

At the time of or before beginning an Inquiry, the RIO shall make a good faith effort to notify the Respondent in writing, if the Respondent is known. If the Inquiry subsequently identifies additional Respondents, they must also be notified in writing. On or before the date on which the Respondent is notified, or the Inquiry begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the Research Misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. The RIO may consult with University Legal Counsel for advice and assistance in this regard.

4. Appointment of the Inquiry Committee

The RIO, in consultation with appropriate Academic Dean(s), Departmental Chairperson(s) or other appropriate institutional officials (e.g., Institutional Review Board (Co-)chairpersons, Office of Research and Sponsored Programs staff, Labor Relations Director) will appoint an Inquiry Committee and Committee Chair within ten (10) business days of the initiation of the Inquiry or as soon thereafter as practical. The Inquiry Committee shall consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the Inquiry and should include individuals with the appropriate scientific and/or subject-specific expertise to evaluate the evidence and issues related to the Allegation; interview the Principal Investigators and key witnesses; and conduct the Inquiry. The Inquiry Committee should consist of no less than three (3) individuals and those three (3) can include one or more experts from outside of West Chester University if necessary.

5. Charge of the Inquiry Committee and First Meeting

The RIO shall prepare a charge for the Inquiry Committee that includes the following:

- Sets forth the time for completion of the Inquiry;
- Describes the Allegations and any related issues identified during the Allegation assessment;
- States that the purpose of the Inquiry is to conduct an initial review of the evidence, including the testimony of the Respondent, Complainant, and key witnesses, to determine whether an Investigation is warranted, but not to determine whether Research Misconduct definitely occurred or who was responsible;
- States that an Investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the Allegation falls within the definition of Research Misconduct and is within the jurisdictional criteria of federal regulations, if applicable; and (2) the Allegation may have substance, based on the committee's review during the Inquiry.
- Informs the Inquiry Committee that they are responsible for preparing or directing the preparation of a written report of the Inquiry that meets the requirements of this policy and, if applicable, federal and sponsor regulations.

At the Inquiry Committee's first meeting, the RIO will review the charge with the membership, discuss the Allegations and any related issues along with appropriate procedures for conducting the Inquiry, assist the committee with organizing plans for the Inquiry, and answer any questions raised by the committee. The RIO, as well as

University Legal Counsel, will be present or available throughout the Inquiry to advise the committee as needed.

6. Inquiry Process

The Inquiry Committee, after five (5) business days notice, will normally interview the Complainant, the Respondent, and key witnesses and examine relevant research records and materials. Then, the Inquiry Committee will evaluate the evidence, including the testimony obtained during the Inquiry. After consultation with the RIO, the committee members will decide, by majority vote, whether an Investigation is warranted based on the criteria in this policy and federal and sponsor regulations if applicable. The scope of the Inquiry is not required to and does not normally include deciding definitively whether misconduct occurred, determining definitively who committed any Research Misconduct, or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of Research Misconduct is made by the Respondent, misconduct may be determined at the Inquiry stage if all relevant issues are resolved. In that case, the RIO and DO will consult and the RIO will share with ORI to determine next steps.

7. The Inquiry Report

a. Elements of the Inquiry Report

A written Inquiry report shall be prepared that includes the following information: (1) the name and position of the Respondent; (2) a description of the Allegations of Research Misconduct; (3) the Public Health Service (PHS) or alternative Grantor support including, for example, grant numbers, grant applications, contracts and publications listing PHS or other Grantor support; (4) the basis for recommending or

not recommending that the Allegations warrant an Investigation; (5) any comments on the draft report by the Respondent or Complainant. The Inquiry report shall include the names and titles of the committee members and experts who conducted the Inquiry, a summary of the Inquiry process used, a list of the research records reviewed, and summaries of any interviews including dates of meetings.

Institutional counsel should review the report for legal sufficiency. Modifications should be made as appropriate in consultation with the RIO and the Inquiry committee.

b. Notification to the Respondent and Opportunity to Comment

The RIO shall notify the Respondent whether the Inquiry found an Investigation to be warranted, include a copy of the draft Inquiry report for comment within five (5) business days of completion by the committee, and include a copy of or refer to federal regulations if applicable and the institution's policies and procedures on Research Misconduct. A confidentiality agreement may be a condition for access to the report.

Any comments that are submitted will be attached to the final Inquiry report. Based on the comments, the Inquiry committee may revise the draft report as appropriate and prepare it in final form. The committee will deliver the final report to the RIO within three weeks of submission to the committee.

c. Institutional Decision and Notification

i. Decision by Deciding Official

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

ii. Notification to ORI

Within five (5) business days of the DO's decision that an Investigation is warranted, the RIO will provide ORI, or other Grantor, if required by law or contract, with the DO's written decision and a copy of the Inquiry report. The RIO will also notify those institutional officials who need to know of the DO's decision. The RIO shall provide the following information to ORI or a grantor if required by law or contract, upon request: (1) the institutional policies and procedures under which the Inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges to be considered in the Investigation.

iii. Documentation of Decision Not to Investigate

If the DO decides that an Investigation is not warranted, the RIO shall secure and maintain for seven (7) years after the termination of the Inquiry sufficiently detailed documentation of the Inquiry to permit a later assessment by ORI or a Grantor of the reasons why an Investigation was not conducted. These documents shall be provided to ORI or other authorized HHS personnel upon request or to a Grantor if required by law or contract.

d. Timeline and Final Inquiry Report

The Inquiry, including preparation of the final Inquiry report and the decision of the DO on whether an Investigation is warranted, shall be completed within twenty (20) business days of initiation of the Inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the Inquiry record must include documentation of the reasons for exceeding the twenty (20)- day period. The Respondent will be notified of the extension.

G. Conducting an Investigation

1. Initiation and Purpose

Absent unusual circumstances, the Investigation must begin within twenty (20) business days after the determination by the DO that an Investigation is warranted. The purpose of the Investigation is to develop a factual record by exploring the Allegations in detail and examining the evidence in depth, leading to recommended findings on whether Research Misconduct has been committed, by whom, and to what extent. The Investigation will also determine whether there are additional instances of possible Research Misconduct that would justify broadening the scope beyond the initial Allegations. This is particularly important where the alleged Research Misconduct involves clinical trials or potential harm to human subjects or the general public, or if it affects research that forms the basis for public policy, clinical practice, and/or public health practice. The findings of the Investigation will be set forth in an Investigation report.

2. Notifying ORI and Respondent; Sequestration of Research Records

On or before the date on which the Investigation begins, the RIO shall: (1) notify the ORI or Grantor, if required by law or contract, of the decision to begin the Investigation and provide ORI or Grantor a copy of the Inquiry report; and (2) notify the Respondent in writing of the Allegations to be investigated. The RIO must also give the Respondent written notice of any new Allegations of Research Misconduct within a reasonable amount of time of deciding to pursue Allegations not addressed during the Inquiry or in the initial notice of the Investigation.

Prior to notifying the Respondent of the Allegations, the RIO will take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the Research Misconduct

proceeding that were not previously sequestered during the Inquiry. Where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. The need for additional sequestration of records for the Investigation may occur for any number of reasons, including the institution's decision to investigate additional Allegations not considered during the Inquiry stage or the identification of records during the Inquiry process that had not been previously secured. The procedures to be followed for sequestration during the Investigation are the same procedures that apply during the Inquiry.

3. Appointment of the Investigation Committee

The RIO, in consultation with appropriate Academic Dean(s), Departmental Chairperson(s), and other institutional officials as appropriate, will appoint an Investigation Committee and the committee chair within five (5) business days of the beginning of the Investigation or as soon thereafter as practical. The Investigation Committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the Investigation and should include individuals with the appropriate scientific and/or technical expertise to evaluate the evidence and issues related to the Allegation, interview the Respondent and Complainant, and conduct the Investigation. Individuals appointed to the Investigation Committee may also have served on the Inquiry committee. When necessary to secure the necessary expertise or to avoid conflicts of interest, the RIO may select appropriate committee members from outside WCU.

4. Charge to the Committee and the First Meeting

a. Charge of the Investigation Committee

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

- Describes the Allegations and related issues identified during the Inquiry;
- Identifies the Respondent;
- Informs the committee that it must conduct the Investigation as described above;
- Defines Research Misconduct;
- Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, Research Misconduct occurred and, if so, the type and extent of it and who was responsible;
- Informs the committee that in order to determine that the Respondent committed Research Misconduct, it must find that a preponderance of the evidence establishes that: (1) Research Misconduct, as defined in this policy, occurred (Respondent has the burden of proving by a preponderance of the evidence; beyond reasonable doubt, any affirmative defenses raised, including honest error or a difference of opinion); (2) the Research Misconduct is a significant departure from accepted practices of the relevant research community; and (3) the Respondent committed the Research Misconduct intentionally, knowingly, or recklessly; and
- Informs the committee that it must prepare or direct the preparation of a written Investigation report that meets the requirements of this policy and any federal regulations, if applicable.

b. First Meeting

The RIO shall convene the first meeting of the Investigation Committee to review the charge, the Inquiry report, and the prescribed procedures and standards for the conduct of the Investigation, including the necessity for confidentiality and for developing a specific Investigation plan. The Investigation Committee will be provided with a copy of this policy and federal regulations, if applicable. The RIO and University Legal Counsel will be present or available throughout the Investigation to advise the committee as needed.

5. Investigation Process

The Investigation Committee and the RIO must:

- Use diligent efforts to ensure that the Investigation is thorough and sufficiently documented and includes examination of all Research Records and evidence relevant to reaching a recommendation on the merits of each Allegation;
- Take reasonable steps to ensure an impartial and unbiased Investigation to the maximum extent possible;
- Interview each Respondent, Complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspect(s) of the Investigation, including witnesses identified by the Respondent, and record or transcribe each interview, provide a written summary to the interviewee for correction, and include the written summary in the record of the Investigation; and
- Pursue diligently all significant issues and leads discovered that are determined relevant to the Investigation, including any evidence of any additional instances of possible Research Misconduct, and continue the Investigation to completion.

6. Time for Completion

The Investigation is to be completed within sixty (60) business days of its beginning, including conducting the Investigation, preparing the report of findings, providing the draft report for comment and sending the final report to ORI, if applicable, or other Grantor if required by law or contract. However, if the RIO determines that the Investigation will not be completed within this sixty (60)-day period, they will submit to the ORI, if applicable, or other Grantor if required by law of contract, a written request for an extension, setting forth the reasons for the delay. If the ORI or Grantor grants the request for an extension, and directs the filing of such reports, the RIO will ensure that periodic progress reports are filed with ORI or other Grantor(s), as applicable.

H. The Investigation Report

1. Elements of the Investigation Report

The Investigation Committee and the RIO are responsible for preparing a written draft report of the Investigation that:

- Describes the nature of the Allegation of Research Misconduct, including identification of the Respondent;
- Describes and documents the Public Health Service (PHS), or other Grantor support including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing PHS support;
- Describes the specific Allegations of Research Misconduct considered in the Investigation;
- Includes the institutional policies and procedures under which the Investigation was conducted;

- Identifies and summarizes the Research Records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
- Includes a statement of findings for each Allegation of Research Misconduct identified during the Investigation. Each statement of findings must: (1) identify whether the Research Misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the Respondent, including any effort by Respondent to establish by a preponderance of the evidence that they did not engage in Research Misconduct because of honest error or a difference of opinion; (3) identify the specific PHS/Grantor support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the Respondent has pending with non-PHS federal agencies.
- Includes and considers any comments made by the respondent and complainant on the draft investigation report.

Additionally, the Investigation Committee and the RIO shall maintain and provide to ORI upon request all relevant research records and records of the institution's research misconduct proceeding, including results of all interviews and the transcripts or recordings of such interviews.

2. Comments on the Draft Report and Access to Evidence

a. Respondent

The RIO must give the Respondent a copy of the draft Investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The Respondent will be allowed thirty (30) days from the

date they receive the draft report to submit comments to the RIO. The Respondent's comments must be included and considered in the final report.

b. Confidentiality

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

I. Decision by Deciding Official

The RIO will assist the Investigation Committee in finalizing the draft Investigation report, including ensuring that the Respondent's comments are included and considered, and transmit the final Investigation report to the DO, who will determine in writing and report to the University President (1) whether the institution accepts the Investigation report, its findings, and the recommended institutional actions; and (2) the appropriate institutional actions in response to the accepted findings of Research Misconduct. If this determination varies from the findings of the Investigation Committee, the DO will, as part of their written determination, explain in detail the basis for rendering a decision different from the findings of the Investigation Committee. Alternatively, the DO may return the report to the Investigation Committee with a request for further fact-finding or analysis.

When a final decision on the case has been reached, the RIO will notify both the Respondent and the Complainant in writing. The Complainant will only be entitled to know whether or not the Allegation of Research Misconduct was founded. After informing ORI, if applicable, or other Grantor(s) if required by law or contract, the DO

will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the Respondent in the work, and/or other relevant parties should be notified of the outcome of the Investigation. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

J. Disciplinary Measures for Founded Misconduct

When Research Misconduct has been recommended by the Investigation Committee and the DO has agreed, potential disciplinary action will be taken in accordance with the applicable CBA.

K. Notice to ORI of Institutional Findings and Actions

Unless an extension has been granted, the RIO must, within the sixty (60) business day period for completing the Investigation, submit the following to the Federal Office of Research Integrity (ORI), and, if applicable, to another Grantor(s), as required to by law or contract: (1) a copy of the final Investigation report with all attachments (2) a statement of whether the institution accepts the findings of the Investigation report (3) a statement of whether the institution found evidence of Research Misconduct and, if so, who committed the Misconduct; and (4) a description of any pending or completed administrative actions against the Respondent.

L. Maintaining Records for Review by ORI

The RIO shall maintain and provide to ORI upon request "records of Research Misconduct proceedings" as that term is defined by 42 CFR § 93.317. This standard will be used for all grants received by the University. Unless custody has been transferred to HHS or ORI has advised in writing that the records no longer need to be retained, records of Research Misconduct proceedings shall be maintained in a secure manner

for seven (7) years after completion of the proceeding or the completion of any PHS proceeding involving the Research Misconduct Allegation. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by ORI to carry out its review of an Allegation of Research Misconduct or of the institution's handling of such an Allegation.

M. Completion of Cases; Reporting Premature Closures to ORI

Generally, all Inquiries and Investigations will be carried through to completion and all significant issues will be pursued diligently. The RIO must notify ORI, or another granting agency if required by law or contract, in advance if there are plans to close a case at the Inquiry or Investigation stage on the basis that Respondent has admitted guilt, a settlement with the Respondent has been reached, or for any other reason, except: (1) closing of a case at the Inquiry stage on the basis that an Investigation is not warranted; or (2) a finding of no misconduct at the Investigation stage, which must be reported to ORI, or another grantor if required to by law or contract, as prescribed in this policy and any applicable federal regulations.

N. Other Considerations

1. Termination or Resignation Prior to Completing Inquiry or Investigation

The termination of the Respondent's institutional employment, by resignation or otherwise, before or after an Allegation of possible Research Misconduct has been reported, will not preclude or terminate the Research Misconduct proceeding or otherwise limit any of the institution's responsibilities under federal regulations, if applicable.

If the Respondent, without admitting to the misconduct, elects to resign their position after the institution receives an Allegation of Research Misconduct, the assessment of the Allegation will proceed, as well as the Inquiry and Investigation, as appropriate; based on the outcome of the preceding steps. If the Respondent refuses to participate in the process after resignation, the RIO and any Inquiry or Investigation committee will use their best efforts to reach a conclusion concerning the Allegations; noting in the report the Respondent's failure to cooperate and its effect on the evidence.

2. Protection of the Complainant, Witnesses and Committee Members

During the Research Misconduct proceeding and upon its completion, regardless of whether the institution or ORI, or other Grantor(s), determines that Research Misconduct occurred, the RIO will undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any Complainant who made Allegations of Research Misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the Research Misconduct proceeding. The DO will determine after consulting with the RIO and with the Complainant, witnesses or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.

3. Allegations Not Made in Good Faith

If relevant, the DO will determine whether the Complainant's Allegations of Research Misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the DO determines there was an absence of good faith, they

will determine whether any administrative action should be taken against the person who failed to act in good faith. Discipline for this action will be in accordance with any applicable CBA or policy.

O. Federal Regulations and Collective Bargaining Agreement Terms Supersede

This policy is intended to comply with all federal, state, local and sponsor regulations and the terms of the Collective Bargaining Agreement. If any provisions of this policy conflict with federal, state or local regulations or the Collective Bargaining Agreement the terms of the federal, state, local or sponsor regulations or the Collective Bargaining Agreement shall govern.

Definitions

c. *Allegation* means a disclosure of possible Research Misconduct through any means of communication. The disclosure may be by written or oral statement or other communication to an institutional or grantor official.

d. *Collective Bargaining Agreement* (CBA) means the agreement between the Association of Pennsylvania College and University Faculties (APSCUF) and the Pennsylvania State System of Higher Education (PASSHE) or any other applicable CBA covering PASSHE employees.

e. *Complainant* means a person who in good faith makes an Allegation of Research Misconduct.

f. *Deciding Official* (DO) means the institutional official who makes final determinations on Allegations of Research Misconduct and any institutional administrative actions. At West Chester University, this will be the Provost or their designee. At no times will this be the Research Integrity Officer.

g. *Evidence* means any document, tangible item, or testimony offered or obtained during a Research Misconduct proceeding that tends to prove or disprove the existence of an alleged fact.

h. *Good faith* as applied to a Complainant or witness, means having a belief in the truth of one's Allegation or testimony that a reasonable person in the Complainant's or witness's position could have based on the information known to the Complainant or witness at the time. An Allegation or cooperation with a Research Misconduct proceeding is not in good faith if it is made with knowing or reckless disregard for information that would negate the Allegation or testimony. Good faith as applied to a committee member means cooperating with the purpose of helping an institution meet its responsibilities under any federal or state law or contractual obligation. A committee member does not act in good faith if their acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the Research Misconduct proceeding.

i. *Grantor* means the person or entity that is supplying funds, goods or services in support of the research conducted pursuant to this policy. This could include, but not be limited to, the United States Department of Health and Human Services, the National Science Foundation or any other federal, state, local or private entity/person that directly provides support to the research conducted pursuant to this policy.

j. *HHS* means the United States Department of Health and Human Services.

k. *Inquiry* means preliminary information-gathering and preliminary fact-finding as to whether an Allegation of apparent instance of violation of responsible conduct of research warrants an Investigation. When applicable, it shall meet the criteria and follow the procedures of 42 CFR §§ 93.307-93.309.

l. *Institutional Counsel* means the University Legal Counsel who represents the institution during the violations of responsible conduct of research Inquiry and Investigation and who is responsible for advising the Research Integrity Officer, the Inquiry and Investigation committees and the Deciding Official on relevant legal issues. The institutional counsel does not represent the Respondent, an informant or any other person participating during the Inquiry, Investigation or any follow-up action, except the institutional officials responsible for managing or conducting the institutional violations of responsible conduct of research process as part of their official duties.

m. *Institutional Member* means a person who is employed by, is an agent of,

or is affiliated by contract or agreement with West Chester University. Institutional Members may include, but are not limited to, officials, tenured and untenured faculty, teaching and support staff, researchers, research coordinators, clinical technicians, postdoctoral and other fellows, students, volunteers, agents, and contractors, subcontractors, and subawardees, and their employees.

n. *Investigation* means the formal development of a factual record and the examination of that record leading to a decision not to make a finding of Research Misconduct or to a recommendation for a finding of Research Misconduct which may include a recommendation for other appropriate actions, including administrative actions. All such Investigations, to the extent that they do not conflict with federal or state law, shall be consistent with any applicable CBA.

o. *Office of Research Integrity* or *ORI* means the office to which the HHS Secretary has delegated responsibility for addressing research integrity and misconduct issues related to activities supported through the Office of Public Health Service.

p. *Preponderance of the evidence* means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

q. *Public Health Service* or *PHS* means the unit within HHS that includes the Office of Public Health and Science and the following Operating Divisions: Agency for Healthcare Research and Quality, Agency for Toxic Substances and Disease Registry, Centers for Disease Control and Prevention, Food and Drug Administration, Health Resources and Services Administration, Indian Health Service, National Institutes of Health, and the Substance Abuse and Mental Health Services Administration, and the offices of the Regional Health Administrators.

r. *PHS support* means PHS funding, or applications or proposals therefore, for biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research or training, that may be provided through: PHS grants, cooperative agreements, or contracts or subgrants or subcontracts under those PHS funding instruments; or salary or other payments under PHS grants, cooperative agreements or contract.

s. *Records of Research Misconduct proceedings* means: (1) the research records and evidence secured for the Research Misconduct proceeding pursuant to this policy and federal regulations, if applicable except to the extent the Research Integrity Officer determines and documents that those records are not relevant to the proceeding or that the records duplicate other records that have been retained; (2) the documentation of the determination of irrelevant or duplicate records; (3) the Inquiry report and final documents (not drafts) produced in the course of preparing that report, including the documentation of any decision not to investigate, as required by federal regulations if applicable, (4) the Investigation report and all records (other than drafts of the report) in support of the report, including the recordings or transcripts of each interview conducted; and (5) the complete record of any appeal within the institution from the finding of Research Misconduct .

t. *Research Integrity Officer* (RIO) means the West Chester University official responsible for: (1) assessing Allegations of Research Misconduct , in collaboration with appropriate Academic Deans and Departmental Chairs, to determine if they fall within the definition of Research Misconduct, and warrant an Inquiry on the basis that the Allegation is sufficiently credible and specific so that potential evidence of Research Misconduct may be identified; and (2) overseeing Inquiries and Investigations; and (3) the other responsibilities described in this policy. The Associate Provost for Research and Creative Activities will be the RIO for WCU.

u. *Research Misconduct* means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. *Fabrication* is making up data or results and recording or reporting them. *Falsification* is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record. *Plagiarism is* the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

v. *Research Misconduct proceeding* means any actions related to alleged Research Misconduct that is within federal regulations, if applicable, including, but not limited to, Allegation assessments, Inquiries, Investigations, ORI oversight reviews, hearings and administrative appeals.

w. *Research record* means the record of data or results that embodies the facts resulting from scientific inquiry including, but not limited to, data, documents, computer files, computer CDs or diskettes or any other written or non-written account of objects that reasonably may be expected to provide evidence or information regarding the proposed, conducted or reported research that constitutes the subject of an Allegation or violations or responsible conduct of research. A Research Record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports that are internal or external; journal articles; laboratory notebooks; notes; correspondence; videos; photographs; theses; oral presentations; X-ray films, slides, biological materials; computer files and printouts; manuscripts and publications; index cards; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.

x. *Respondent* means the person against whom an Allegation of Research Misconduct is directed or who is the subject of Research Misconduct proceeding. There can be more than one Respondent in any Inquiry or Investigation.

y. *Retaliation* means an adverse action that affects the employment or other status of an individual because the individual has, in good faith, made an Allegation of violations of scientific misconduct or of an inadequate institutional response thereto, or has cooperated in good faith with an Investigation of such Allegation including, but not limited to, being a witness or committee member. WCU has a zero-tolerance policy that prohibits Retaliation.

References

1.West Chester University, Charter of the Institutional Review Board

2. 45 CFR 46.

3. 42 CFR 93.

Reviewed by: Associate Provost for Research and Creative Activities

Office of Labor Relations Review: Name and title

Policy Owner: Associate Provost for Research and Creative Activities; Office of Research and Sponsored Programs

Approved by: 

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Executive Vice President and Provost (interim)

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