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UNIVERSITY OF NEBRASKA-LINCOLN  
POLICY AND PROCEDURES FOR  
RESPONDING TO ALLEGATIONS OF  
RESEARCH MISCONDUCT

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## Table of Contents

|      |  |    |
|------|--|----|
| I.   | INTRODUCTION.....  | 1  |
| A.   | General Policy.....  | 1  |
| B.   | Scope .....  | 1  |
| II.  | DEFINITIONS.....   | 3  |
| III. | General Rights and Responsibilities.....   | 6  |
| A.   | Research Integrity Officer (RIO) .....   | 6  |
| 1.   | The RIO has lead responsibility for ensuring that the institution: .....                                       | 6  |
| 2.   | Upon receipt of a written allegation of research misconduct, the RIO becomes responsible for: 7                |    |
| B.   | Complainant.....   | 8  |
| C.   | Respondent.....  | 8  |
| D.   | Observer .....   | 9  |
| E.   | Deciding Official.....   | 9  |
| F.   | Academic Rights and Responsibilities Committee (ARRC).....   | 10 |
| IV.  | General Policies and Principles.....   | 11 |
| A.   | Responsibility to Report Misconduct.....   | 11 |
| B.   | Cooperation with Research Misconduct Process.....  | 11 |
| C.   | Confidentiality .....  | 11 |
| D.   | Protecting Complainants, Witnesses, and Committee Members.....   | 11 |
| E.   | Protecting the Respondent.....   | 12 |
| F.   | Interim Administrative Actions and Notifying Federal Agencies or Other Sponsors of Special Circumstances ..... | 12 |
| V.   | Conducting the Assessment and Inquiry .....  | 14 |
| A.   | Assessment of Allegations .....  | 14 |
| B.   | Initiation and Purpose of the Inquiry .....  | 14 |
| C.   | Notice to Respondent.....  | 14 |
| D.   | Preservation of Research Records .....   | 15 |
| E.   | Appointment of the Inquiry Committee .....   | 15 |
| F.   | Charge to the Committee and First Meeting .....  | 15 |
| G.   | Inquiry Process .....  | 16 |
| H.   | Time for Completion.....   | 16 |
| VI.  | The Inquiry Report.....  | 17 |
| A.   | Elements of the Inquiry Report.....  | 17 |
| B.   | Notification to the Respondent and Opportunity to Comment.....   | 17 |

|   |    |
|---|----|
| C. Institutional Decision and Notification .....  | 17 |
| 1. Decision by Deciding Official.....   | 17 |
| 2. Documentation of Decision Not to Investigate .....   | 18 |
| 3. Sponsor Notification .....   | 18 |
| VII. Conducting the Investigation .....   | 19 |
| A. Initiation and Purpose .....   | 19 |
| B. Notice and Sequestration of Research Records.....  | 19 |
| C. Appointment of the Investigation Committee.....  | 19 |
| D. Charge to the Committee and the First Meeting .....  | 20 |
| E. Investigation Process .....  | 21 |
| F. Time for Completion.....   | 21 |
| VIII. The Investigation Report .....  | 22 |
| A. Elements of the Investigation Report.....  | 22 |
| B. Comments on the Draft Report and Access to Evidence.....   | 22 |
| 1. Respondent.....  | 22 |
| 2. Investigation Committee.....   | 23 |
| C. Decision by Deciding Official.....   | 23 |
| 1. The RIO shall transmit the final Investigation report to the DO, who shall determine and report in writing:..... | 23 |
| 2. The RIO shall provide the respondent a copy of:.....   | 23 |
| D. Notice to Relevant Sponsors and Agencies of Institutional Findings and Actions .....                             | 23 |
| E. Notice of Determination to ARRC Chair.....   | 24 |
| F. Maintaining Records for Review by the Sponsor.....   | 24 |
| IX. Completion of Cases; Reporting Premature Closures to the Sponsor.....   | 25 |
| X. Institutional Administrative Actions .....   | 26 |
| XI. Faculty Right of Complaint.....   | 27 |
| XII. Other Considerations.....  | 28 |
| A. Termination or Resignation Prior to Completing Inquiry or Investigation.....                                     | 28 |
| B. Restoration of the Respondent's Reputation.....  | 28 |
| C. Protection of the Complainant, Witnesses, and Committee Members.....   | 28 |
| D. Allegations Not Made in Good Faith.....  | 28 |
| XIII. Appendix A. Research Misconduct Flowchart.....  | 29 |
| XIV. Family Educational Rights and Privacy; Final Rule .....  | 32 |
| XV. Nebraska Public Records Law .....   | 83 |
| XVI. NOTES:.....  | 90 |

## **I. INTRODUCTION**

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### **A. General Policy**

The University of Nebraska-Lincoln (UNL) expects ethical conduct on the part of all those engaged in research. As articulated in UNL's Professional Ethics Statement, researchers at UNL seek to employ the highest standards of intellectual honesty.

Through its Office of Research, UNL seeks to provide leadership in supporting a culture of research integrity within the University, a culture in which all participants in the UNL research enterprise internalize and pursue the goal of self-directed responsible conduct of research. UNL is proud of its tradition of excellence in research and of our longstanding commitment to the highest standards for scientific integrity and the responsible conduct of research. It is every researcher's responsibility to promote a commitment to intellectual honesty and personal responsibility for one's actions, and to respect everyone involved in the research enterprise. As an institution, we are committed to preventing misconduct in research and support good faith efforts to intervene in and remedy such misconduct.

### **B. Scope**

This policy and the associated procedures apply to all individuals at the University of Nebraska-Lincoln engaged in research as defined in Section II of this document, regardless of whether the research is sponsored by any external agency. This policy applies to any person employed by, or affiliated with, the institution, and includes those defined as institutional members in Section II.L.

The University of Nebraska-Lincoln Policy and Procedures for Responding to Allegations of Research Misconduct applies to (1) Public Health Service (PHS, an operating component of the US Department of Health and Human Services) supported or other research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information, (2) applications or proposals for PHS support or other research, research training or activities related to that research or research training, or (3) plagiarism of research records produced in the course of PHS or other research, research training or activities related to that research or research training, including any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal for PHS or other funds resulted in a grant, contract, cooperative agreement, or other form of PHS or other support<sup>1</sup>.

This policy and associated procedures applies to all allegations of research misconduct and shall be followed when an allegation of possible research misconduct is received by any committee or official of the university. Particular circumstances in an individual case may dictate variation from the normal procedure deemed in the best interests of the institution and federal or other agency. Any change from normal procedures also shall ensure fair treatment to the subject of the inquiry or investigation. Significant variation shall be approved in advance in writing by the Deciding Official (DO) of the University of Nebraska-Lincoln. The Research Integrity Officer (RIO) shall notify the respondent of the anticipated variation in writing in advance of its approval. The approved variation shall be incorporated into the record of the research misconduct process.

This statement of policy and procedures is intended to carry out this institution's responsibilities under relevant federal regulations on research misconduct, including the PHS Policies on Research

Misconduct, 42 Code of Federal Regulations (CFR) Part 93 (Sections in this policy based on 42 CFR Part 93 have endnotes indicating the applicable section on page 32).

The PHS regulation is the most comprehensive and is the model that many federal funding agencies and other sponsors follow, and thus is the applicable standard to be used for all research misconduct cases, regardless of sponsor. Any additional specific sponsor requirements, pertinent office (e.g., Office of Inspector General for the National Science Foundation), or terminology shall be followed where applicable.

This statement of policy and procedures does not apply to authorship or collaboration disputes and applies only to allegations of research misconduct that occurred within six years of the date the institution, U.S. Department of Health and Human Services, or any other federal or state agency or sponsor received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR § 93.105(b). Misconduct allegations not falling under this policy or the meaning of "research misconduct" as defined herein shall be referred to the Chair of the UNL Academic Rights and Responsibilities Committee (ARRC).

Research practica generally are not subject to this policy. Research practica (usually in the form of course-related research activities) are designed to provide students an opportunity to practice various research methods such as interview, observation and survey techniques, laboratory and field procedures, measurement of behavior (e.g., reaction time, speech, problem solving) as well as data analysis. Research practica also allow for skills development exercises such as literature reviews and online searches. Typically such projects are quite limited in scope and are not designed to, or result in generalizable knowledge. For example, a student may interview a peer when the interview does not involve any sensitive, personal information or do literature reviews for a course-related research paper. These activities are considered "classroom exercises" and do not fall under the scope of this research misconduct policy. However, systematic research, which is designed to lead to generalizable knowledge, such as that conducted for the purposes of a thesis or dissertation, is subject to this policy.

## II. DEFINITIONS

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- A. *Allegation* means any written or oral statement or other indication of possible research misconduct brought to the attention of the institutional RIO (refer to Section II.X.).
- B. *ARRC Observer* means the person chosen by the ARRC Chair, in consultation with the RIO, who shall be present throughout the inquiry and/or investigation process, unless the respondent declines in writing to have an observer.
- C. *Complainant* means a person who makes an allegation of research misconduct.
- D. *Conflict of interest* means the real or apparent interference of one person's interests with the interests of another person, where potential bias may be due to prior or existing personal or professional relationships or a financial interest in the subject matter. Circumstances that could raise a conflict of interest for a member of the Inquiry or Investigation Committee include if (s)he:
  - 1. Reports directly to the respondent, the DO, the RIO, or complainant; or
  - 2. Has a direct voice in the salary or working conditions of the respondent or complainant; or
  - 3. Has, or reasonably appears to have, a personal interest in the case or its outcome; or
  - 4. Has a relationship with the respondent, the complainant, the DO, or the RIO that a reasonable person would consider to impair impartiality.
- E. *Day(s)* refers to day(s) that the university conducts business.
- F. *Deciding Official (DO)* means the Vice Chancellor for Research of the University of Nebraska-Lincoln. The DO shall make final determinations on allegations of research misconduct and any institutional administrative actions. The DO shall not be the same individual as the RIO. Prior to rendering any determination, the DO shall have no involvement in the institution's inquiry, investigation, or allegation assessment. The DO's consultation with the RIO on potential inquiry or investigation committee members is not considered to be direct involvement in the assessment, inquiry or investigation or to create a conflict of interest.
- G. *Evidence* means any document, tangible item, or testimony offered or obtained during a research misconduct process that is involved to prove or disprove the existence of an alleged fact.
- H. *Federal support* means federal grants, contracts, or cooperative agreements or applications for such support.
- I. *Good faith* means having an honest belief in the truth of one's allegation or testimony.
- J. *Inquiry* means gathering information and initial fact-finding to determine whether an allegation or apparent instance of research misconduct warrants an investigation.<sup>2</sup>
- K. *Institution* means the University of Nebraska-Lincoln (UNL).
- L. *Institutional member* means a person who is employed by, is an agent of, or is affiliated by contract or agreement with UNL. Institutional members may include, but are not limited to, officials, faculty, teaching and support staff, researchers, research coordinators, clinical technicians, postdoctoral and other fellows, students, volunteers, agents, and contractors, subcontractors and sub-awardees, and their employees.
- M. *Intentionally* describes the circumstance where a person acts with purpose to cause a consequence that constitutes research misconduct, and the person is aware, believes, or hopes the consequences will occur.

- N. *Investigation* means the formal development of a factual record and the examination of that record to determine if research misconduct has occurred, and, if so, to determine the responsible person and the seriousness of the research misconduct<sup>3</sup>
- O. *Knowingly* describes the circumstance where a person acts with awareness or understanding of the likely consequences of their actions, and the person is aware or understands that those consequences, which constitute research misconduct, are practically certain to occur.
- P. *Notice* means a written communication served in person, or sent by mail or its equivalent to the last known street address, fax number, or e-mail address of the addressee.
- Q. *ORI* means the Office of Research Integrity, the office within the U.S. Department of Health and Human Services that is responsible for the research misconduct and research integrity activities of the U.S. Public Health Service.
- R. *PHS Regulation* means the U.S. Public Health Service regulation establishing standards for institutional inquiries and investigations into allegations of research misconduct, which is set forth at 42 CFR Parts 50 and 93 entitled "Public Health Service Policies on Research Misconduct; Final Rule."
- S. *Professional Staff* means all UNL personnel defined as professional staff by Regents Bylaw 3.1.1
- T. *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.
- U. *Recklessly* describes the circumstance where a person acts with conscious disregard of a substantial, unjustifiable, and foreseeable risk of consequences that constitute research misconduct.
- V. *Redaction* means concealment or removal of information according to the Nebraska Public Records Act, Neb. Rev. Stat. 84-712, Family Educational Rights and Privacy Act, or other applicable law.
- W. *Research*, for the purposes of this document, means any systematic experiment, study, evaluation, demonstration or survey, including research development (pilot testing), designed to develop or contribute to generalizable knowledge. Generalizable knowledge refers to any systematically gathered data which is intended for dissemination beyond the institutional setting (e.g., program evaluation for internal use would not usually be applicable), and that might reasonably be generalized beyond the research sample.
- X. *Research Integrity Officer (RIO)* means the institutional official appointed by the Chancellor of the University of Nebraska-Lincoln and responsible for: (1) assessing allegations of research misconduct 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; (2) overseeing inquiries and investigations; and (3) the other responsibilities described in Section III. A. of this policy.
- Y. *Research misconduct* as defined by the federal Office of Science and Technology Policy means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Fabrication is making up data or results or recording or reporting made-up data or results. 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. Research misconduct does not include honest error or differences of opinion.

Z. *Research record* means any data, document, computer file, computer data storage device, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of research misconduct. A research record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.

AA. *Respondent* means the person against whom an allegation of research misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

BB. *Retaliation* means to discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an institutional member in association with a good faith allegation of research misconduct or as a part of good faith cooperation with the research misconduct process. The administrative actions or sanctions that accompany the determination by the Deciding Official as a part of the research misconduct process are by definition are not retaliation.

CC. *Sponsor* means any entity, public or private, that funds a defined project. The University of Nebraska-Lincoln is considered the sponsor of any research activity carried out by an institutional member in the absence of an external sponsor.

### **III. GENERAL RIGHTS AND RESPONSIBILITIES**

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#### **A. Research Integrity Officer (RIO)**

The Chancellor shall appoint the RIO who shall have primary responsibility for implementation of the institution's policies and procedures on research misconduct.

##### **1. The RIO has lead responsibility for ensuring that the institution:**

- a. Takes all reasonable and practical steps to foster a research environment that promotes the responsible conduct of research, research training, and activities related to that research or research training, discourages research misconduct, and deals promptly with allegations or evidence of possible research misconduct.
- b. Has written policies and procedures for responding to allegations of research misconduct and reporting information about that response to the relevant sponsor, as required by 42 CFR Part 93 or other relevant regulations.
- c. Complies with the university's written policies and procedures and the requirements of 42 CFR Part 93 and other relevant regulations.
- d. Informs its institutional members who are subject to this policy about its research misconduct policies and procedures and its commitment to compliance with those policies and procedures.
- e. Takes appropriate interim action during a research misconduct process to protect public health, federal or other sponsored funds and equipment, and the integrity of the sponsored or any other research process.
- f. Files an annual report with the Office of Research Integrity (ORI) containing the information prescribed by ORI.
- g. Sends to ORI with the annual report such other aggregated information as may be prescribed by the institution's research misconduct process and the institution's compliance with 42 CFR Part 93 and other regulations.
- h. Notifies the relevant sponsor immediately if, at any time during the research misconduct process, it has reason to believe that health or safety of the public is at risk, U.S. Department of Health and Human Services or other resources or interests are threatened, research activities should be suspended, there is reasonable indication of possible violations of civil or criminal law, federal or other action is required to protect the interests of those involved in the research misconduct process, the institution believes that the research misconduct process may be made public prematurely, or the research community or the public should be informed.
- i. Provides the relevant sponsor with the written finding by the responsible institutional official that an investigation is warranted and a copy of the inquiry report, within 30 days of the date on which the finding is made.
- j. Notifies the relevant sponsor of the decision to begin an investigation on or before the date the investigation begins.
- k. Within 120 days of beginning an investigation, or such additional days as may be granted by the relevant sponsor, provides that sponsor with:
  - i. The investigation report,
  - ii. A statement of whether the institution accepts the investigation's findings,
  - iii. A statement of whether the institution found research misconduct and, if so, who committed it,

- iv. A description of any pending or completed administrative actions against the respondent.
- l. Seeks in advance the relevant sponsor approval if the institution plans to close a case at the inquiry or investigation stage on the basis that the respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except the closing of a case at the inquiry stage on the basis that an investigation is not warranted or a finding of no misconduct at the investigation stage.
- m. Cooperates fully with the relevant sponsor during its oversight review and any subsequent administrative hearings including providing all research records and evidence under the institution's control, custody, or possession and access to all persons within its authority necessary to develop a complete record of relevant evidence.
- n. Maintains and provides to the relevant sponsor upon request all relevant research records and records of the institution's research misconduct process, including the results of all interviews and the transcripts or recordings of those interviews.

2. Upon receipt of a written allegation of research misconduct, the RIO becomes responsible for:

- a. Informing respondents, complainants, and witnesses of the procedural steps in the research misconduct process;
- b. Promptly taking all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct process; including making an inventory of the records and evidence and sequestering them in a secure manner;
- c. Providing the respondent copies of, or reasonable supervised access to, the research records.
- d. Taking all reasonable and practical steps to ensure the cooperation of respondents and other institutional members with research misconduct process, including, but not limited to their providing information, research records and evidence.
- e. Taking all reasonable and practical steps to ensure confidentiality to those involved in the research misconduct process as required by 42 CFR § 93.108, other applicable law, and institutional policy. The RIO shall: (1) limit disclosure of the identity of respondents, complainants, and witnesses to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct process described in this policy; 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 process. The RIO shall use written confidentiality agreements or other mechanisms to ensure that every complainant, respondent, witness, and committee member understands and is bound by his or her obligations not to make any further disclosure of identifying information outside of the research misconduct process.
- f. Determining whether any person involved in handling an allegation of research misconduct has any conflict of interest and taking appropriate action.
- g. Receiving and taking appropriate action in the event the ARRC Observer reports a concern or complaint about the research misconduct process to the RIO. If necessary, the RIO shall present the issue to the DO, who shall take appropriate action.

- h. Keeping the DO and others who need to know, as described in this policy, apprised of the progress of the review of the allegation of research misconduct.
- i. In cooperation with other institutional officials, taking all reasonable and practical steps to protect or restore the positions and reputations of complainants, witnesses, and committee members and to counter potential or actual retaliation against them by respondents or other institutional members.
- j. Making all reasonable and practical efforts, as appropriate, to protect and restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made, and making all reasonable and practical efforts to protect respondents from potential or actual retaliation by an institutional member.
- k. Assisting the DO in implementing his/her decision to take administrative action against any complainant, respondent, witness, or committee member determined by the DO not to have acted in good faith.
- l. Maintaining records of the research misconduct process, as defined in 42 CFR § 93.317, in a secure manner for seven years after completion of the process, or the completion of any sponsor process involving the allegation of research misconduct, whichever is later, unless custody of the records has been transferred to the relevant sponsor or the relevant sponsor has advised that the records no longer need to be retained.
- m. Ensuring that administrative actions taken by the institution and the relevant sponsor are enforced and taking appropriate action to notify other involved individuals or organizations, such as law enforcement agencies, professional societies, and licensing boards, of those actions.
- n. Making clerical assistance and logistical support available for the Inquiry and Investigation Committees, e.g., expert advice, including forensic analysis of evidence, arranging witness interviews and for the recording or transcribing those interviews; clerical support in preparing the draft inquiry report; taking appropriate action to protect the confidentiality of the draft reports.
- o. Being available or present throughout the inquiry and investigation process to advise the committee as requested.
- p. Assigning a designee to conduct the RIO's responsibilities described in this policy as needed.
- q. Ensuring that there are no conflicts of interest in conducting the described RIO duties. If the RIO has a conflict of interest, the DO shall appoint a qualified administrator or faculty member to conduct the RIO duties described in the policy.

## B. Complainant

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation<sup>4</sup>.

## C. Respondent

The respondent is responsible for maintaining confidentiality and cooperating in good faith with the conduct of an inquiry and investigation.

The Respondent has the following rights:

1. To decline, in writing, the presence of an ARRC observer as provided in this policy;

2. To have an opportunity to provide comment to the RIO regarding potential conflicts of interest in individuals identified by the RIO as potential committee members,
3. To have an opportunity to comment (including provision of information, materials or evidence to rebut any information or assertion in the report) on the draft inquiry and investigation reports and have his/her comments attached to the final reports<sup>5</sup>;
4. To receive or have timely access to all documents, reports, or evidence as specifically described in this policy;
5. To be notified in a timely and proper way, and in accordance with this policy, of the outcomes of the inquiry and the investigation, of all deadlines for submission of materials and comments, and of any new allegations that arise during the process;
6. To identify potential witnesses, to be interviewed during the investigation, to have the opportunity to review the transcript of that interview and to correct any factual errors in the transcript for inclusion in the record of the investigation.

The respondent has the opportunity to admit that research misconduct occurred and that (s)he committed the research misconduct. With the advice of the RIO and/or other institutional officials, the DO may terminate the institution's review of an allegation that has been admitted, if the institution's acceptance of the admission and any proposed settlement is approved by the relevant sponsor<sup>6</sup>.

At the conclusion of the entire process, respondents who are faculty have the right to file a complaint under the policies of the ARRC if they believe they have not been treated fairly or in accordance with this policy, as described in Section XI.

#### **D. Observer**

An ARRC observer shall be present throughout the Inquiry and/or Investigation process, unless declined in writing by the respondent. The ARRC observer shall not have voting rights, shall keep all information from the process confidential, and shall not participate in any way in the process. As a prerequisite to serving in this role, the ARRC observer shall sign a written confidentiality agreement to ensure non-disclosure. The observer is responsible for reporting any concerns about the process to the RIO during the Research Misconduct process. After the entire process is complete, the ARRC Observer shall report to the ARRC Chair regarding completion and general information about the process to handle the allegation.

#### **E. Deciding Official**

The DO shall receive the inquiry report and, after consulting with the RIO and/or other institutional officials, decide whether an investigation is warranted under the following criteria: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct; and (2) preliminary information-gathering and preliminary fact finding from the Inquiry indicates that the allegation may have substance.

Any finding that an investigation is warranted shall be made in writing by the DO and shall be provided to the relevant federal or other agency if applicable together with a copy of the inquiry report within 30 days of the finding. If it is found that an investigation is not warranted, the DO and the RIO shall ensure that detailed documentation of the inquiry is retained for at least seven years after termination of the inquiry, so that the relevant federal or other agency may assess the reasons why the institution decided not to conduct an investigation<sup>7</sup>.

The DO shall receive the investigation report and, after consulting with the RIO and/or other institutional officials, decide the extent to which the institution accepts the findings of the investigation and, if research misconduct is found, decide what, if any, institutional administrative actions are appropriate. The DO shall ensure that the final investigation report, the findings of the DO and a description of any pending or completed administrative actions are provided to any relevant sponsor.

The DO may appoint a designee to conduct the DO's responsibilities described in this policy as needed.

The DO shall assure that there are no conflicts of interest in conducting the described duties of the DO and RIO. If the DO has a conflict of interest, the Chancellor shall appoint a qualified administrator or faculty to conduct the DO duties described in the policy.

#### **F. Academic Rights and Responsibilities Committee (ARRC)**

The ARRC has primary responsibility to ensure and to arrange an appropriate investigation or hearing when concerns or problems arise between a faculty member and the university and/or when problems related to academic freedom and tenure, or professional conduct occur in the professional relationships between faculty members and others in the University community, as stated in Sections 4.13-4.15 of the Bylaws of the Board of Regents.

The ARRC, as described in its procedures document, "Responsibilities of the ARRC and Procedures for Handling Matters of Academic Freedom, Tenure, Grievance, and Professional Conduct", and noted in Section XI in this document, has responsibility for receiving faculty complaints regarding the research misconduct process after that process is complete, assessing them for sufficiency and jurisdiction, and transmitting them to an appropriate Special Committee for investigation and hearing.

## **IV. GENERAL POLICIES AND PRINCIPLES**

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The research misconduct process is depicted in a flow chart in Appendix A, and as set forth in this policy, has three basic phases. First, any allegation of research misconduct made pursuant to this policy is evaluated in accordance with Part V of this policy to determine whether the alleged misconduct falls within the definition of research misconduct, and thereby warrants an inquiry. If it is determined that the allegation falls within the definition of research misconduct, an inquiry process (described in Parts V and VI) is initiated whereby an Inquiry Committee is convened to conduct an initial review of the available evidence to determine whether an investigation is warranted. If, based on Inquiry Committee recommendations, the Deciding Official opts to initiate an investigation, an Investigation Committee shall be convened to conduct a formal investigation of the matter, to develop a factual record by exploring the allegations in detail, to examine the evidence in depth, and to make a recommendation on whether research misconduct has been committed, by whom, and to what extent. The Investigation Committee submits a final report to the Deciding Official, who then makes a final determination, stipulates any necessary remedy, and completes any necessary agency reporting (as described in Part VII).

### **A. Responsibility to Report Misconduct**

All institutional members shall report observed, suspected, or apparent research misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the RIO to discuss the suspected 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 shall refer the individual or allegation to the ARRC or other offices or officials who might be able to assist in resolving the problem.

At any time, an institutional member may have confidential discussions and consultations about concerns of possible misconduct with the RIO and shall be counseled about appropriate procedures for reporting allegations.

### **B. Cooperation with Research Misconduct Process**

Institutional members shall cooperate in the review of allegations and the conduct of inquiries and investigations. Institutional members, including respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO.

### **C. Confidentiality**

The RIO shall protect confidentiality as described in Section III.A of this policy.

### **D. Protecting Complainants, Witnesses, and Committee Members**

Institutional members may not retaliate in any way against complainants, witnesses, or committee members. Institutional members are obligated to 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 and protect and restore the position and reputation of the person against whom the retaliation is directed.

## **E. Protecting the Respondent**

As requested and as appropriate, the RIO and other institutional officials shall make all reasonable and practical efforts to protect the professional standing and restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made<sup>8</sup>.

During the research misconduct process, the RIO is responsible for ensuring that respondents receive all the notices and opportunities provided for in the policies and procedures of the institution.

Institutional members may not retaliate in any way against respondents. Institutional members should immediately report any alleged or apparent retaliation against respondents to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed. Administrative actions or sanctions that accompany the determination by the DO as a part of the research misconduct process described herein by definition are not retaliation.

Respondents may, at their sole expense, consult with legal counsel or a non-lawyer personal advisor (who is not a complainant, respondent, or witness in the case) to seek advice. The lawyer or a personal advisor may accompany the respondent in an advisory capacity to all meetings, interviews, and other processes that include the attendance of the respondent related to the inquiry and/or investigation. The lawyer or personal advisor shall be permitted only to observe the process and to advise the respondent, and shall not be permitted to participate in any other way in any interviews or meetings, and shall be required to direct all communications with UNL and/or any members thereof through the Office of the Vice President and General Counsel. As a prerequisite to serving in this role, the advisor shall sign a written confidentiality agreement to ensure non-disclosure to protect the interests of all those involved in the research misconduct process.

## **F. Interim Administrative Actions and Notifying Federal Agencies or Other Sponsors of Special Circumstances**

Throughout the research misconduct process, the RIO shall review the situation to determine if there is any threat of harm to public health, federal or other sponsor funds and equipment, or the integrity of the federally or other supported research process. In the event of such a threat, the RIO shall, in consultation with other institutional officials and the relevant federal agency or other sponsor, take appropriate interim action to protect against any such threat<sup>9</sup>. Interim action might include additional monitoring of the research process and the handling of federal or other sponsor funds and equipment, reassignment of personnel or of the responsibility for the handling of federal or other sponsor funds and equipment, additional review of research data and results or delaying publication. The RIO shall, at any time during a research misconduct process, notify the relevant federal agency or other sponsor immediately if (s)he has reason to believe that any of the following conditions exist:

1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
2. Federal or other resources or interests are threatened;
3. Research activities should be suspended;

4. There is a reasonable indication of possible violations of civil or criminal law;
5. Federal or other action is required to protect the interests of those involved in the research misconduct process;
6. The research misconduct process may be made public prematurely and federal or other action may be necessary to safeguard evidence and protect the rights of those involved; or
7. The research community or public should be informed<sup>10</sup>.

## **V. CONDUCTING THE ASSESSMENT AND INQUIRY**

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### **A. Assessment of Allegations**

Upon receiving a written allegation of research misconduct, the RIO shall immediately assess the allegation to determine for each allegation of research misconduct if an inquiry is warranted. An inquiry shall be conducted if these criteria are met: (1) the allegation falls within the definition of research misconduct, (2) is within the jurisdictional criteria of 42 CFR § 93.102(b), and (3) is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

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.

### **B. Initiation and Purpose of the Inquiry**

If the RIO determines that the criteria for an inquiry are met, he or she shall immediately initiate the inquiry process.

The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation<sup>11</sup>. The Inquiry Committee conducts an initial review of the evidence, including the testimony of the respondent, complainant and key witnesses, to determine whether an investigation is warranted.

The scope of the Inquiry does not normally include determining whether misconduct definitely occurred, determining definitely who committed the 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 institution shall promptly consult with the relevant federal or other agency if applicable to determine the next steps that should be taken (see Section IX).

### **C. Notice to Respondent**

At the time of or before beginning an inquiry, the RIO shall notify the respondent in writing regarding:

1. The type of alleged misconduct;
2. The source material at issue;
3. The relevant sponsor and reference to sponsor research misconduct policies;
4. Federal definition of research misconduct;
5. UNL's Policy and Procedures for Responding to Allegations of Research Misconduct;
6. The respondent's right to have an ARRC Observer present throughout the process unless declined in writing.

If the Inquiry subsequently identifies additional respondents that may be involved with the same allegation, they shall be notified of the inquiry in writing and provided all documentation associated with the allegation within seven days of their identification.

#### **D. Preservation of Research Records**

On or before the date on which the respondent is notified, or the Inquiry begins, whichever is earlier, the RIO shall take reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct process, inventory the records and evidence, and preserve 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<sup>12</sup>. The RIO may consult with the relevant federal agency or other sponsor for advice and assistance in this regard. The RIO should preserve any records in a manner to minimize the impact on ongoing research to the extent possible, give the respondent copies of, or reasonable supervised access to, the research records.

#### **E. Appointment of the Inquiry Committee**

The RIO, after consultation with the Chair of the ARRC and other institutional officials as appropriate, shall appoint an Inquiry Committee and Committee Chair within 15 days of the initiation of the Inquiry. The Inquiry Committee shall consist of three individuals who do not have conflicts of interest with those involved with the Inquiry as defined in Section II and shall include individuals with the appropriate expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the Inquiry<sup>13</sup>. These individuals may be scientists, subject matter experts, administrators, lawyers, or other qualified persons. One member may be from outside the institution. At least two Inquiry Committee members shall be faculty. All three Inquiry Committee members cannot be from the same college. All members of the Inquiry Committee are required to sign confidentiality agreements to ensure non-disclosure.

The RIO shall notify the respondent of the proposed committee membership within 10 days of the appointment of the Inquiry Committee. If the respondent submits a written objection to any appointed member of the Inquiry Committee or expert based on bias or conflict of interest within five days of notification of the membership, the RIO, after consultation with the ARRC Chair, shall determine whether the objections raised are sufficient to replace the challenged member or expert with a qualified substitute.

#### **F. Charge to the Committee and First Meeting**

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

1. Sets forth the time for completion of the Inquiry;
2. Describes the allegations and any related issues identified during the allegation assessment;
3. States the purpose of the Inquiry and includes UNL's Policy and Procedures for Responding to Allegations of Research Misconduct;
4. States that an investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct; and (2) the allegation may have substance, based on the committee's review during the Inquiry;

5. Informs the Inquiry Committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy.

At the committee's first meeting, the RIO shall review the charge with the Committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the Inquiry, assist the Committee with organizing plans for the Inquiry, and answer any questions raised by the Committee. The RIO shall be available throughout the inquiry to advise the Committee as needed but does not have voting authority on Committee decisions.

#### **G. Inquiry Process**

During the Inquiry process, the Inquiry Committee shall interview the complainant, the respondent and key witnesses, as well as examine relevant research records and materials. The Inquiry Committee shall evaluate the evidence, including the testimony obtained during the Inquiry. The Committee can consult with the RIO regarding Inquiry standards and procedures. The Committee members shall recommend to the DO whether to proceed with an investigation based on the criteria in this policy, unless the respondent makes a legally sufficient admission of research misconduct.

#### **H. Time for Completion**

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 60 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 shall include documentation of the reasons for exceeding the 60-day period<sup>14</sup>. The respondent shall be notified of the extension by the RIO and shall be provided the rationale in the notice.

## **VI. THE INQUIRY REPORT**

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Institutional counsel shall review the draft report for legal sufficiency and shall make all appropriate redactions within 14 days of receipt. Modifications shall be made as appropriate in consultation with the RIO and the Inquiry Committee.

### **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 federal support, including, for example, grant numbers, grant applications, contracts and publications listing federal or other support;
4. The names and titles of the Committee members and experts who conducted the Inquiry;
5. A summary of the Inquiry process used and a list of the research records reviewed;
6. A summary of the interviews conducted;
7. The basis for recommending or not recommending that the allegations warrant an investigation, including any dissenting views held by committee members;
8. Recommendations on what, if any, other actions should be taken if an investigation is not recommended;
9. Any comments on the draft Inquiry report by the respondent<sup>15</sup>.

### **B. Notification to the Respondent and Opportunity to Comment**

The RIO shall notify the respondent whether the Inquiry found an investigation to be warranted, provide the draft inquiry report, and refer to the institution's policies and procedures on research misconduct<sup>16</sup>. Respondent shall be given 14 days from the date of the receipt of the report to provide written comments on the draft Inquiry report to the RIO.

The RIO shall notify the complainant whether the Inquiry found an investigation to be warranted.

Any comments that are submitted by the respondent shall 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 Chair shall deliver the final report to the RIO.

### **C. Institutional Decision and Notification**

#### **1. Decision by Deciding Official**

The RIO shall transmit the final Inquiry report and any comments to the DO. The DO shall determine whether an investigation is warranted, and shall issue this determination in writing. If the determination by the DO differs from the Committee recommendation, the DO shall provide the complainant(s), respondent(s), and the Inquiry committee members a written rationale for the determination. The Inquiry is completed when the DO makes the determination.

## 2. Documentation of Decision Not to Investigate

If the DO decides that an investigation is not warranted, the RIO shall secure and maintain for seven years after the termination of the Inquiry sufficiently detailed documentation of the Inquiry to permit a later assessment by any relevant sponsor of the reasons why an investigation was not conducted. These documents shall be provided to authorized federal or other personnel upon request and as required by law.

## 3. Sponsor Notification

Within 30 days of the DO's decision that an investigation is warranted, the RIO shall provide relevant federal agencies or other sponsor with the DO's written decision and a copy of the inquiry report. The RIO shall also notify external institutional officials who need to know of the DO's decision and if appropriate, other agencies upon request. The RIO shall provide the following information to relevant federal agencies or other sponsors 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<sup>17</sup>.

## **VII. CONDUCTING THE INVESTIGATION**

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### **A. Initiation and Purpose**

The Investigation shall begin within 30 days after the determination by the DO that an Investigation is warranted<sup>18</sup>. The purpose of the Investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research misconduct has been committed, by whom, and to what extent. The Investigation also shall determine whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations. This determination is particularly important where the alleged research misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the Investigation shall be set forth in an Investigation report.

### **B. Notice and Sequestration of Research Records**

On or before the date on which the Investigation begins, the RIO shall: (1) provide the respondent with a copy of the final inquiry report, including all attachments; (2) notify relevant sponsor of the decision to begin the Investigation and provide them a copy of the Inquiry report; and (3) notify in writing the respondent of:

1. The type of alleged misconduct to be investigated;
2. The source material at issue;
3. The relevant sponsor and reference to sponsor policies on its research misconduct processes;
4. The federal definition of research misconduct;
5. UNL's Policy and Procedures for Responding to Allegations of Research Misconduct;
6. The ARRC Observer shall be present throughout the investigation process unless declined by the Respondent in writing.

The RIO also shall provide the respondent written notice of any materially or substantially new allegations of research misconduct within seven days of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the Investigation<sup>19</sup>.

The RIO shall, prior to notifying respondent of the allegations, take reasonable and practical steps to obtain custody of and preserve in a secure manner all research records and evidence that relate to the conduct of research for the purposes of the research misconduct process that were not previously preserved during the Inquiry. The need for additional sequestration of records for the Investigation may occur for any number of reasons, including the identification of records during the Inquiry process that had not been previously preserved. The procedures to be followed for preservation during the Investigation are the same procedures that apply during the Inquiry<sup>20</sup>.

### **C. Appointment of the Investigation Committee**

The RIO, in consultation with the ARRC Chair and other institutional officials as appropriate, shall appoint an Investigation Committee as soon as is practical after the need for the Investigation has been determined. The ARRC Chair may, but need not, recommend members from the Academic Rights and Responsibilities Panel. The Investigation Committee shall consist of five individuals who do not have conflicts of interest with those involved with the Investigation and should include

individuals with the appropriate expertise to evaluate the evidence and issues related to the allegation. The Committee Chair shall be chosen by the Investigation Committee members at its first meeting. At least three Investigation Committee members shall be faculty from UNL. At least two of those shall be from different colleges or divisions within the University. In order to secure the necessary expertise or to avoid conflicts of interest, the RIO, in consultation with the ARRC Chair, may select up to two Committee members from outside the institution. All members of the Investigation Committee shall be required to sign confidentiality agreements.

The RIO shall notify the respondent of the proposed Committee membership within 10 days of the appointment of the Investigation Committee. If the respondent objects to any appointed member of the committee, (s)he may submit a written objection to the RIO within five days of notification of its membership. The RIO, in consultation with the ARRC Chair, shall determine whether the objections raised are sufficient to replace the challenged member with a qualified substitute, and shall take appropriate action.

#### **D. Charge to the Committee and the 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 plan. The RIO shall provide the Investigation Committee with a copy of this statement of policy and procedures and a copy of 42 CFR Part 93. The RIO will be available throughout the Investigation to advise the Committee as needed. The RIO is not a member of the Investigation Committee, and therefore does not contribute to Committee decisions.

The RIO shall describe the subject matter of the Investigation in a written charge to the Committee that:

1. Describes the allegations and related issues identified during the inquiry and provide the Committee with a copy of the Inquiry Report;
2. Identifies the respondent;
3. Informs the Committee that it shall conduct the Investigation as prescribed in paragraph E. of this section and includes UNL's Policy and Procedures for Responding to Allegations of Research Misconduct;
4. Defines research misconduct;
5. Informs the Committee that it shall 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;
6. Informs the Committee that the respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion<sup>21</sup>.
7. Informs the Committee that in order to determine that the respondent committed research misconduct it shall find that a preponderance of the evidence establishes that:
  - a. Research misconduct occurred;
  - b. The research misconduct is a significant departure from accepted practices of the relevant research community; and
  - c. The respondent committed the research misconduct, and committed the misconduct intentionally, knowingly, or recklessly.

8. Informs the Committee that it shall prepare or direct the preparation of a written Investigation report that meets the requirements of this policy.

#### **E. Investigation Process**

The Investigation Committee shall:

1. Use diligent efforts to ensure that the Investigation process is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation<sup>22</sup>;
2. Take reasonable steps to ensure an impartial and unbiased Investigation process to the maximum extent practical<sup>23</sup>;
3. Interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the Investigation, including witnesses identified by the respondent and complainant, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the Investigation<sup>24</sup>;
4. Pursue all significant issues and leads discovered that are determined relevant to the Investigation process, including evidence of any additional instances of possible research misconduct, and continue the Investigation to completion<sup>25</sup>;
5. Develop a draft report that includes all required elements described in Section VIII;
6. Consider the written comments by the respondent and develop the final report, including the final recommendations, for submission to the DO for determination.

#### **F. Time for Completion**

The Investigation shall be completed within 120 days from the date that the Investigation Committee receives its charge from the RIO. Completion includes conducting the Investigation, preparing the report of findings, providing the draft report for comment, completing the final report, obtaining determination by the Deciding Official, and providing any relevant federal agency or other sponsor the final report and determination. However, if the RIO determines that the Investigation will not be completed within this 120-day period, (s)he shall submit to the relevant federal agency or other sponsor a written request for an extension, setting forth the reasons for the delay. The RIO shall notify the respondent of the extension and the respondent shall be provided the rationale for the extension in the notice. The RIO shall ensure that periodic progress reports are filed with the federal agency or other sponsor, if the federal agency or other sponsor grants the request for an extension and directs the filing of such reports<sup>26</sup>.

## **VIII. THE INVESTIGATION REPORT**

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Institutional counsel shall review the report for legal sufficiency and shall make all appropriate redactions within 14 days of receipt. Appropriate modifications shall be made in consultation with the RIO and the Investigation Committee to ensure the report meets the requirements of this policy and any pertinent federal or other standards.

### **A. Elements of the Investigation Report**

The Investigation Committee is responsible for preparing a written report of the Investigation that:

1. Describes the nature of the allegation of research misconduct, including identification of the respondent;
2. Describes and documents any sponsorship or federal support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing federal or other support;
3. Lists the names and titles of the Committee members and experts who conducted the Inquiry;
4. Describes the specific allegations of research misconduct considered in the Investigation;
5. Includes the institutional policies and procedures under which the Investigation was conducted;
6. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed;
7. Summarizes the interviews conducted;
8. Provides a statement of findings for each allegation of research misconduct identified during the Investigation<sup>27</sup>. Each statement of findings shall:
  - a. Identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly;
  - b. 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 the respondent to establish by a preponderance of the evidence that he or she did not engage in research misconduct because of honest error or a difference of opinion;
  - c. Identify whether any publications need correction or retraction;
  - d. Identify the person(s) responsible for the misconduct;
  - e. List any current support or known applications or proposals for support that the respondent has pending with federal or other agencies<sup>28</sup>;
  - f. Provide preliminary recommendations regarding institutional actions; and,
  - g. Include any dissenting views held by Committee members in describing the basis for these recommendations.
9. Includes any comments on the draft Investigation by the respondent.

### **B. Comments on the Draft Report and Access to Evidence**

#### **1. Respondent**

The RIO shall give the respondent the draft Investigation report for written comment, and concurrently, a copy of, or supervised access, where necessary, to the evidence (redacted by Institutional Counsel where necessary) on which the report is based. The respondent shall be allowed 30 days from the date (s)he received the draft Investigation report to submit written

comments to the RIO. The respondent's comments shall be included and considered in the final report<sup>29</sup>.

## **2. Investigation Committee**

The Investigation Committee shall review and consider the comments and materials provided by the respondent, and respond, as it deems appropriate, to any issues or items raised in those comments and materials in the final Investigation report. After reviewing and considering the written comments by the respondent on the draft report, the Investigation Committee completes the final report, including the final recommendations, for submission to the DO for subsequent determination.

## **C. Decision by Deciding Official**

- 1. The RIO shall transmit the final Investigation report to the DO, who shall determine and report in writing:**
  - a. Whether, and to what extent, the institution accepts the Investigation report and its findings; a statement of whether the institution found misconduct and, if so, who committed the misconduct; and**
  - b. The appropriate institutional actions in response to the accepted findings of research misconduct. The DO determination shall be included in the record of the research misconduct process. If this determination varies from the findings of the Investigation Committee, the DO shall, as part of his/her written determination, explain 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 has been reached, the RIO shall notify the respondent and the complainant in writing.

## **2. The RIO shall provide the respondent a copy of:**

- a. The final Investigation report with all attachments; and**
- b. The DO determination.**

## **D. Notice to Relevant Sponsors and Agencies of Institutional Findings and Actions**

Unless an extension has been granted, the RIO shall, within the 120-day period for completing the Investigation, submit the following to any relevant sponsor or federal agency:

- 1. A copy of the final Investigation report with all attachments; and**
- 2. A copy of the DO determination.**

The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.<sup>30</sup>

#### **E. Notice of Determination to ARRC Chair**

After conclusion of the process, the RIO shall notify the ARRC Chair of the outcome in writing.

#### **F. Maintaining Records for Review by the Sponsor**

The RIO shall maintain records of research misconduct process in a secure manner for seven years after completion of the process or the completion of any federal or other process involving the research misconduct allegation. The RIO shall maintain and provide to authorized federal or other agencies upon request and as required by law the records of research misconduct process. Unless custody has been transferred to an authorized federal or other agency or the agency has advised in writing that the records no longer need to be retained, records of research misconduct process shall be maintained in a secure manner for seven years after completion of the process or the completion of any federal or other process involving the research misconduct allegation<sup>31</sup>. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by an authorized federal or other agency to carry out its review of an allegation of research misconduct or of the institution's handling of such an allegation<sup>32</sup>.

## IX. COMPLETION OF CASES; REPORTING PREMATURE CLOSURES TO THE SPONSOR

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Generally, all Inquiries and Investigations will be carried through to completion and all significant issues shall be pursued diligently. The RIO shall notify relevant federal agencies or other sponsors in advance if there are plans to close a case 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 shall be reported to the relevant federal or other agency, as prescribed in this policy<sup>33</sup>.

## **X. INSTITUTIONAL ADMINISTRATIVE ACTIONS**

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The University of Nebraska-Lincoln shall take appropriate administrative actions against individuals when an allegation of research misconduct has been substantiated.

If the DO determines that research misconduct is substantiated by the findings of the Investigation Committee, he or she shall decide on the appropriate actions to be taken, after consultation with the RIO and consideration of the recommendations in the Investigation Committee report. The DO has the sole discretion and responsibility to determine, decide, and stipulate the final sanctions against any individual who has been found to have engaged in research misconduct under this policy. The administrative actions may include, but are not limited to, the following:

1. Withdrawal or correction of all pending or published abstracts and papers emanating from the research, where research misconduct was found;
2. Notification of professional societies, professional licensing boards, editors of journals, collaborators of the respondent in the work, or other relevant individuals or organizations;
3. Removal of the responsible person from the particular project;
4. Provision of a letter of reprimand;
5. Cessation or termination of research activities;
6. Special monitoring of future work;
7. Probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
8. Training in the responsible conduct of research, conducting lectures, presentations, or other dissemination concerning the responsible conduct of research;
9. Restitution of funds to the grantor agency as appropriate;
10. Notification of law enforcement agencies; and
11. Other action appropriate to remedy the research misconduct and to prevent it in the future.

## **XI. FACULTY RIGHT OF COMPLAINT**

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Faculty who are a complainant or respondent in this research misconduct process that believe they have not been treated fairly or in accordance with this policy may wish to contact the Chair of the ARRC regarding their rights to file a complaint. The Complainant or Respondent may file a complaint concerning the research misconduct process only after the DO has made a final decision.

## **XII. OTHER CONSIDERATIONS**

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### **A. 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 process or otherwise limit any of the institution's responsibilities.

If the respondent, without admitting to the misconduct, elects to resign his or her position after the institution receives an allegation of research misconduct, the assessment of the allegation shall 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, DO, and any inquiry or Investigation Committee shall 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.

### **B. Restoration of the Respondent's Reputation**

Following a final finding of no research misconduct, including federal or other concurrence where required, the RIO shall undertake all reasonable and practical efforts to restore the respondent's reputation, with approval from the respondent<sup>34</sup>. Depending on the particular circumstances and the views of the respondent, the RIO shall consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research misconduct was previously publicized, and expunging all reference to the research misconduct allegation from the respondent's personnel file. Any institutional actions to restore the respondent's reputation shall first be approved by the DO.

### **C. Protection of the Complainant, Witnesses, and Committee Members**

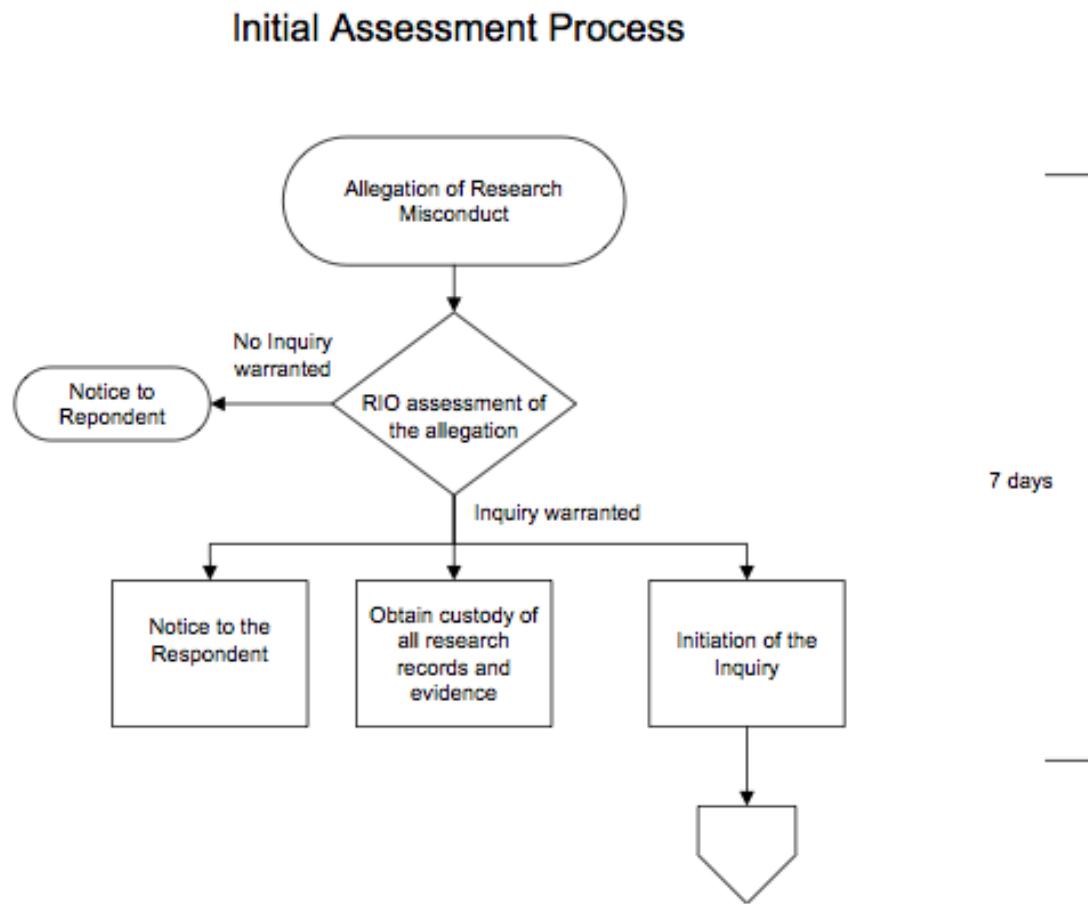
During the research misconduct process and upon its completion, regardless of whether the institution or a relevant federal or other agency determines that research misconduct occurred, the RIO shall undertake all reasonable and practical efforts to protect the position and reputation of, or to counter 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 process<sup>35</sup>. The DO shall 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.

### **D. Allegations Not Made in Good Faith**

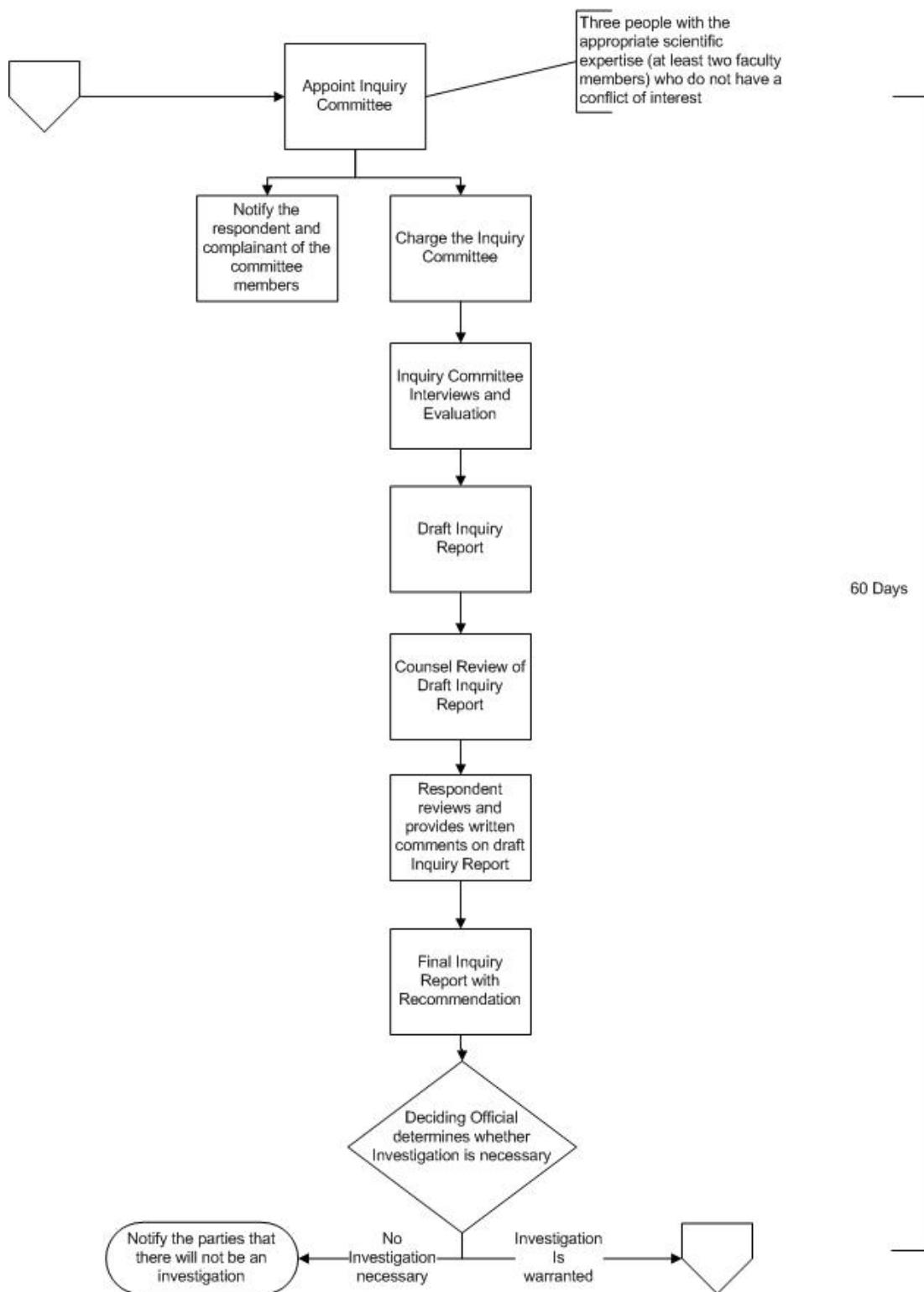
If the DO determines that there was an absence of good faith by any complainant, respondent witness, or committee member in connection with the allegation(s) of research misconduct or the process described herein, the DO shall determine whether any administrative action should be taken.

### XIII. APPENDIX A. RESEARCH MISCONDUCT FLOWCHART

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## Inquiry Process



## Investigation Process

