

West Virginia University Research Integrity Procedure  
Approved by the Faculty Senate May 9, 2011

1     **I.     Introduction**

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3         A.     General Policy

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5         Integrity is an obligation of all who engage in the acquisition, application, and dissemination  
6         of knowledge. Scholars are bound to maintain honesty and avoid deception in all aspects of  
7         their work. This duty, rooted in personal and professional ethics, is shared by all members  
8         of the University community.

9  
10        B.     Scope

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12        This policy and its procedures apply to all individuals, including faculty, students and staff at  
13        West Virginia University engaged in research, research-training or application for research  
14        funding. This policy applies to any person paid by, under the control of, or affiliated with  
15        the University, including but not limited to scientists, trainees, technicians and other staff  
16        members, students, fellows, guest researchers, or collaborators at West Virginia University.

17  
18        The policy and procedures will normally be followed when an allegation of possible  
19        academic misconduct is received by an institutional official.

20  
21        These procedures do not apply to undergraduate or graduate students engaged in course work  
22        when that course work does not generate or seek to generate published research.

23  
24     **II.    Definitions**

25  
26        The following definitions apply only to this policy.

27  
28        A.     *Research misconduct* means fabrication, falsification, or plagiarism in proposing,  
29        conducting, reporting or reviewing research.

30  
31        B.     *Research Integrity Officer* means the University employee, appointed by the President  
32        of West Virginia University, responsible for assessing allegations of research  
33        misconduct, conducting investigations of such allegations and for implementing the  
34        procedures set forth in this policy.

35  
36        C.     *Affirmative defense* means a claim by a respondent of honest error, a difference of  
37        opinion or other excuse for the conduct in question.

38  
39        D.     *Allegation* means any written or oral statement or other indication of possible research  
40        misconduct made to an University official.

- 1 E. *Complainant* means a person who makes an allegation of research misconduct.  
2
- 3 F. *Conflict of interest* means the real or apparent interference of one person's interests with  
4 the interests of another person, where potential bias may occur due to prior or existing  
5 personal or professional relationships.  
6
- 7 G. *Deciding Official* means the institutional official, appointed by the President of West  
8 Virginia University, who makes final determinations on allegations of research  
9 misconduct and any responsive University actions. The Deciding Official will not be  
10 the same individual as the Research Integrity Officer. The President may appoint more  
11 than one Deciding Official to accommodate the needs of the various campuses.  
12
- 13 H. *Destruction of records* means the destruction, absence of, or respondent's failure to  
14 provide records adequately documenting the questioned research work. It is evidence of  
15 research misconduct where West Virginia University establishes by a preponderance of  
16 the evidence that the respondent intentionally, knowingly, or recklessly had records and  
17 destroyed them, had the opportunity to maintain the records but did not do so, or  
18 maintained the records and failed to produce them in a timely manner and that the  
19 respondent's conduct constitutes a significant departure from accepted practices of the  
20 relevant academic community.  
21
- 22 I. *Executive Secretary* means the University employee appointed by the Research Integrity  
23 Officer to maintain the minutes of the Inquiry and Investigation Committee and to  
24 participate in the investigation of all allegations of research misconduct.  
25
- 26 J. *Fabrication* means making up data or results and recording or reporting them.  
27
- 28 K. *Falsification* means manipulating materials, equipment, or processes, or changing or  
29 omitting data or results such that the research work is not accurately represented in the  
30 record.  
31
- 32 L. *Good faith allegation* means an allegation made with the honest belief that research  
33 misconduct may have occurred. An allegation is not in good faith if it is made with  
34 reckless disregard for or willful ignorance of facts that would disprove the allegation.  
35
- 36 M. *Inquiry* means gathering information and initial fact-finding to determine whether an  
37 allegation or apparent instance of research misconduct warrants an investigation.  
38
- 39 N. *Hearing* means a fact finding proceeding, held at the request of the Respondent, to  
40 determine whether a finding of research misconduct is justified.  
41
- 42 O. *Hearing Panel* is a group of three members who conduct a hearing and reach a  
43 conclusion as to whether there has been a violation of this policy.

- 1 P. *Inquiry and Investigation Committee* is a committee of up to seven (7) persons  
2 appointed by the Research Integrity Officer to review all evidence of inquiries and  
3 investigations and to issue reports and findings with respect to the same. At least three  
4 (3) members of the committee shall carry out its functions in each case.  
5
- 6 Q. *Investigation* means the formal examination and evaluation of all relevant facts to  
7 determine if misconduct has occurred, and, if so, to determine the responsible person  
8 and the seriousness of the misconduct.  
9
- 10 R. *Investigator* means a person appointed by the Research Integrity Officer to assist in the  
11 investigation of a claim of research misconduct.  
12
- 13 S. *Mitigating factors* are aspects of the case which do not provide a defense for the  
14 respondent under this policy, but which may be considered by the Deciding Official in  
15 determining the appropriate University response to the finding of research misconduct.  
16
- 17 T. *Plagiarism* means the appropriation of another person's ideas, processes, results, or  
18 words without giving appropriate credit.  
19
- 20 U. *Record* means any data, document, computer file, computer storage medium, or any  
21 other written or non-written account or object that reasonably may be expected to  
22 provide evidence or information regarding the allegation of research misconduct. A  
23 record includes, but is not limited to, grant or contract applications, whether funded or  
24 unfunded; grant or contract progress and other reports; laboratory notebooks; notes;  
25 correspondence; videos; photographs; X-ray film; slides; biological materials; computer  
26 files and printouts; other machine readable data records; manuscripts and publications;  
27 equipment use logs; laboratory procurement records; animal facility records; human and  
28 animal subject protocols; consent forms; medical charts; records of telephone calls or e-  
29 mail correspondence; and patient files.  
30
- 31 V. *Research* means a systematic experiment, study, evaluation, demonstration or survey  
32 designed to develop or contribute to general or specific knowledge relating to any  
33 academic discipline. It includes creating, establishing, discovering, developing,  
34 elucidating, confirming or disseminating information about that academic discipline.  
35
- 36 W. *Respondent* means the person against whom an allegation of research misconduct is  
37 directed or the person whose actions are the subject of the inquiry or investigation.  
38 There can be more than one respondent in any inquiry or investigation.  
39
- 40 X. *Retaliation* means any action that adversely affects the employment or other institutional  
41 status of an individual that is taken by West Virginia University or its employee because  
42 the individual has in good faith, made an allegation of research misconduct or of  
43 inadequate institutional response thereto or has cooperated in good faith with an

1 investigation of such allegation. Any act of retaliation taken by a person or entity not  
2 within the control of West Virginia University is outside the scope of this policy.  
3

### 4 **III. Requirements of Findings**

5  
6 A finding of research misconduct under this policy requires that—

- 7
- 8 A. The conduct constitutes research misconduct;
  - 9
  - 10 B. The conduct is a significant departure from accepted practices of the relevant academic  
11 community;
  - 12
  - 13 C. The misconduct was committed intentionally, knowingly, or recklessly; and
  - 14
  - 15 D. The allegation be proven by a preponderance of the evidence.  
16

### 17 **IV. Evidence and burden of proof**

18  
19 The following evidentiary standards apply to findings made under this policy.

- 20
- 21 A. Standard of proof. Research misconduct or affirmative defense must be proved by a  
22 preponderance of the evidence.  
23
  - 24 B. Burden of proof.  
25
    - 26 1. West Virginia University has the burden of proof for making a finding of research  
27 misconduct. That burden may be discharged either through the presentation of  
28 affirmative evidence of misconduct or through the presentation of evidence that the  
29 respondent has destroyed records as those acts are defined above.  
30
    - 31 2. The respondent has the burden of proving any affirmative defenses raised by the  
32 respondent.  
33
    - 34 3. The respondent has the burden of proving by a preponderance of the evidence any  
35 mitigating factors that are relevant to a decision to impose sanctions following an  
36 research misconduct proceeding.  
37

### 38 **V. Rights and Responsibilities of Participants**

#### 39 A. Research Integrity Officer

40  
41  
42 The President of West Virginia University or the President's designee shall appoint the  
43 Research Integrity Officer who will have primary responsibility for implementation of the

1 procedures set forth in this policy. The Research Integrity Officer will be a University  
2 employee who is well qualified to handle the procedural requirements involved and is  
3 sensitive to the varied demands made on those who conduct research, those who are accused  
4 of misconduct, and those who report apparent misconduct in good faith.  
5

6 The Research Integrity Officer will appoint the Inquiry and Investigation Committee and will  
7 maintain an array of persons appointed by the Faculty Senate Committee on Committees to  
8 serve as members of Hearing Panels. The Research Integrity Officer will provide training to  
9 the Inquiry and Investigation Committee and the array from whom Hearing Panel members  
10 are chosen on the content of this policy and relevant laws touching on research misconduct.  
11

12 The Research Integrity Officer investigates allegations of alleged research misconduct and  
13 may appoint additional investigators to gather evidence in such cases. The Research  
14 Integrity Officer will ensure that necessary and appropriate expertise is secured to carry out a  
15 thorough and authoritative evaluation of the relevant evidence in an inquiry or investigation.  
16 The Research Integrity Officer will attempt to ensure that appropriate confidentiality is  
17 maintained throughout the proceedings as described below. The Research Integrity Officer  
18 will present evidence garnered to the Inquiry and Investigation Committee. The Research  
19 Integrity Officer is also responsible for maintaining files of all documents and evidence and  
20 for the confidentiality and the security of the files. These records shall be treated as exempt  
21 for purposes of disclosure under W. Va. Code 29B-1-1 *et seq.*  
22

23 The Research Integrity Officer will strive to insure fairness to the University and all  
24 participants in cases of alleged research misconduct.  
25

26 The Research Integrity Officer may consult, in his or her discretion, any employee or officer  
27 of West Virginia University or any entity under its control in order to carry out his or her  
28 responsibilities under this policy.  
29

30 The Research Integrity Officer shall advise all West Virginia University personnel in  
31 complying with these procedures and with applicable standards imposed by government or  
32 external funding sources. The Research Integrity Officer will report to all external sources  
33 of funding as set forth in section IX of this policy and as required by federal or state  
34 regulations.  
35

#### 36 B. Complainant 37

38 The complainant, if known, will have an opportunity to give recorded testimony to the  
39 Research Integrity Officer, the Executive Secretary or any investigator for consideration by  
40 the Inquiry and Investigation Committee. The complainant may also be called upon to  
41 provide live testimony to any Hearing Panel convened in the matter. The complainant has  
42 the right to review portions of the inquiry report pertinent to his/her allegations or testimony  
43 (sections VII, C, 2 and VII, D, 3), to be informed of the results of the process (section VIII,

1 C), and to be protected from retaliation for good faith allegations (section VI, B). The  
2 complainant is entitled to protection afforded by the confidentiality provisions of this policy  
3 (section VI, E).  
4

5 The complainant is responsible for making allegations in good faith, maintaining  
6 confidentiality to the fullest extent permitted by law, and cooperating with an inquiry,  
7 investigation or hearing proceeding in a timely manner.  
8

#### 9 C. Deciding Official

10 The Deciding Official will receive the inquiry or investigation reports and any written  
11 comments made by the respondent or the complainant. Sections VII, C, 3; VII, E, 4; and  
12 VIII. If the respondent elects to request a Hearing Panel, the Deciding Official will receive  
13 the report of findings of that Panel. Section VIII. The Deciding Official may accept or  
14 reject the reports, in whole or in part, and order further action as set forth in sections VII, C,  
15 3; VII, E, 4; and VIII below. If the final report in the matter finds that the respondent has  
16 committed research misconduct, the Deciding Official may, in his or her discretion, consult  
17 with the Research Integrity Officer or other appropriate officials and will determine whether  
18 to impose sanctions, or whether to take other appropriate administrative actions pursuant to  
19 section VIII below.  
20

21 The Deciding Official may consult, in his or her discretion, with any employee or officer of  
22 West Virginia University or any entity under its control in order to carry out his or her  
23 responsibilities under this policy.  
24

#### 25 D. Executive Secretary

26 The Executive Secretary will be appointed by the Research Integrity Officer. The Executive  
27 Secretary will maintain the minutes of the Inquiry and Investigation Committee, will  
28 maintain records of any Hearing Panel proceedings, and will participate in inquiries and  
29 investigations with the Research Integrity Officer. He or she will also undertake further  
30 activities as requested by the Inquiry and Investigation Committee, Research Integrity  
31 Officer or the Deciding Official.  
32  
33

#### 34 E. Hearing Panel

35 A Hearing Panel will be convened at the request of a respondent if the Inquiry and  
36 Investigation Committee concludes, after investigation, that the respondent has engaged in  
37 research misconduct (Section VII, E, 3 and VII, F). The Hearing Panel will be selected as  
38 set forth in Sections V, A and VII, F, 1. The Panel's procedures are set forth in Section VII,  
39 F.  
40  
41  
42  
43

1 F. Inquiry and Investigation Committee

2  
3 The Inquiry and Investigation Committee will be appointed by the Research Integrity  
4 Officer. Committees will be appointed for each division of the University. The Committee  
5 will receive reports and evidence from the Research Integrity Officer, the Executive  
6 Secretary or any investigator appointed by the Research Integrity Officer and will decide  
7 whether investigations are warranted and whether research misconduct has occurred. The  
8 procedures of the Committee are set forth in Sections VII, B; VII, C; VII, D; and VII, E.  
9

10 G. Respondent

11  
12 The respondent will be informed of the allegations during or before the investigation and  
13 will receive copies of the inquiry and investigative reports at times set forth below. See  
14 Sections VII, E, 2. The respondent will receive written notice of the final determinations  
15 and resulting actions. See Sections VIII. The respondent will also have the opportunity to be  
16 interviewed by and present recorded evidence to the Research Integrity Officer or Executive  
17 Secretary for presentation to the Inquiry and Investigation Committee (Sections VII, B, 4 and  
18 VII, D, 3), have a face to face meeting with the Inquiry and Investigation Committee at his or  
19 her request (Section VII, D, 4), to review and comment in writing upon the draft  
20 investigation report (Section VII, E, 2), and to have the advice of counsel at all stages of the  
21 proceeding (Section VI, C). If the Inquiry and Investigation Committee determines that the  
22 respondent has committed research misconduct, the respondent may elect to have the matter  
23 heard by a Hearing Panel for an adjudication (Section VII, E, 3).  
24

25 The respondent is responsible for maintaining confidentiality to the fullest extent permitted  
26 by law and cooperating with the conduct of an inquiry, investigation or hearing in a timely  
27 manner. Failure to cooperate in a timely manner may result in waiver of respondent's rights  
28 as set forth above.  
29

30 If the respondent is not found guilty of research misconduct, the University shall offer,  
31 where appropriate, reasonable steps to provide assistance in restoring respondent's  
32 reputation.  
33

34 **VI. General Policies and Principles**

35  
36 A. Responsibility to Report Misconduct  
37

38 All employees or individuals associated with West Virginia University should report  
39 observed, suspected, or apparent research misconduct to the Research Integrity Officer. If an  
40 individual is unsure whether a suspected incident falls within the definition of research  
41 misconduct, he or she may contact the Research Integrity Officer to discuss the suspected  
42 misconduct informally. If the circumstances described by the individual do not meet the

1 definition of research misconduct, the Research Integrity Officer may refer the individual or  
2 allegation to other offices or officials with responsibility for resolving the problem.

3  
4 At any time prior to the initiation of an inquiry, an employee may have confidential  
5 discussions and consultations about concerns of possible misconduct with the Research  
6 Integrity Officer and will be counseled about appropriate procedures for reporting  
7 allegations.

#### 8 9 B. Protecting the Complainant and others

10  
11 The Research Integrity Officer will monitor the treatment of individuals who bring  
12 allegations of misconduct or of inadequate institutional response thereto, and those who  
13 cooperate in inquiries, investigations or hearings. The Research Integrity Officer will take  
14 reasonable steps to ensure that these persons will not be retaliated against by West Virginia  
15 University and will review instances of alleged retaliation for appropriate action.

16  
17 Employees should immediately report any alleged or apparent retaliation to the Research  
18 Integrity Officer.

19  
20 Also West Virginia University will protect the privacy of those who report misconduct in  
21 good faith to the maximum extent possible consistent with applicable law. The complainant  
22 is entitled to the protection afforded by the confidentiality provisions of this policy. The  
23 complainant will be advised that if the matter is referred to a Hearing Panel and the  
24 complainant's testimony is required or if applicable law otherwise requires, confidentiality  
25 cannot be guaranteed. West Virginia University will undertake diligent efforts to protect the  
26 positions and reputations of those persons who, in good faith, make allegations.

#### 27 28 C. Protecting the Respondent

29  
30 Inquiries, investigations and hearings will be conducted in a manner that will ensure fair  
31 treatment to the respondent. Confidentiality will be maintained to the extent possible  
32 without compromising public health and safety or thoroughly carrying out the inquiry,  
33 investigation or hearing. Respondents accused of Research misconduct may consult with  
34 legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case)  
35 to seek advice and may bring the counsel or adviser to interviews, meetings or hearings on  
36 the case. The counsel or advisor may present evidence on behalf of the respondent before  
37 any Hearing Panel in the matter and may ask questions of any other witness called during  
38 proceedings before such a Panel.

#### 39 40 D. Cooperation with Inquiries and Investigations

41  
42 All West Virginia University employees and the employees of entities under the control of  
43 the University will cooperate with the Research Integrity Officer, the Executive Secretary or  
44 other investigator, the Inquiry and Investigation Committee, any Hearing Panel and other



1 institutional officials in the review of allegations and the conduct of inquiries, investigations  
2 and hearings. Such employees have an obligation to provide relevant evidence to the  
3 Research Integrity Officer, the Executive Secretary or other investigator, the Inquiry and  
4 Investigation Committee, any Hearing Panel or other institutional officials on misconduct  
5 allegations.

#### 6 7 E. Confidentiality

- 8  
9 1. All participants in the procedures set out in this policy, including the complainant  
10 and respondent and all witnesses, shall maintain the confidentiality of those  
11 procedures to the fullest extent permitted by law and by this policy.
- 12  
13 2. Disclosure of the identity of respondents and complainants in research misconduct  
14 proceedings is limited, to the extent possible, to those who need to know, consistent  
15 with a thorough, competent, objective and fair research misconduct proceeding, and  
16 as allowed by law. Provided, however, that West Virginia University must disclose  
17 the identity of respondents and complainants to governmental funding sources  
18 pursuant to their regulations and may be required to disclose that information to  
19 other funding entities.
- 20  
21 3. Except as may otherwise be prescribed by applicable law, confidentiality must be  
22 maintained for any records or evidence from which research subjects might be  
23 identified. Disclosure is limited to those who have a need to know to carry out an  
24 research misconduct proceeding.

#### 25 26 F. Admission of Research Misconduct

27  
28 At any point in the Inquiry or Investigation, a Respondent may elect to admit the research  
29 misconduct charged. Such an admission must be in writing and signed by the respondent.  
30 The admission must address all the requirements of findings set forth in section III above.  
31 The admission may also include any factors in mitigation which the respondent wishes to  
32 advance. The admission will be presented for review by the Inquiry and Investigation  
33 Committee. If that Committee finds that the admission meets the tests of this section and  
34 finds that there is no other reason to reject the admission, it will prepare a report as required  
35 by section VII, E below and forward the matter to the Deciding Official for decision under  
36 section VII, E, 4 and VIII below.

### 37 38 VII. **Procedure**

#### 39 40 A. Preliminary Assessment of Allegations

41  
42 Upon receiving an allegation of research misconduct, the Research Integrity Officer will  
43 immediately assess the allegation to determine whether there is sufficient evidence to

1 warrant an inquiry, whether outside funding or application for outside funding is involved,  
2 and whether the allegation, if true, falls under the definition of research misconduct. If the  
3 Research Integrity Officer concludes that there is sufficient evidence and that the allegation  
4 falls under the definition of research misconduct, he or she shall commence the inquiry  
5 process.  
6

## 7 B. Conducting the Inquiry 8

### 9 1. Initiation and Purpose of the Inquiry 10

11 In initiating the inquiry, the Research Integrity Officer should identify clearly the  
12 original allegation and any related issues that should be evaluated. The purpose of the  
13 inquiry is to make a preliminary evaluation of the available evidence and, if appropriate,  
14 testimony of the respondent, complainant, and other relevant witnesses to determine  
15 whether there is sufficient evidence of possible research misconduct to warrant an  
16 investigation. The purpose of the inquiry is not to reach a final conclusion about  
17 whether misconduct definitely occurred or who was responsible. The findings of the  
18 inquiry must be set forth in an inquiry report.  
19

### 20 2. Sequestration of Records 21

22 The Research Integrity Officer must take all reasonable steps to ensure that all original  
23 records and materials relevant to the allegation are immediately secured. The Research  
24 Integrity Officer may consult with relevant governmental funding agencies for advice  
25 and assistance in this regard. The Research Integrity Officer will make appropriate  
26 provision for access by the Respondent to these records consistent with maintaining  
27 their authenticity and with applicable law.  
28

### 29 3. Convene Inquiry and Investigation Committee 30

31 The Research Integrity Officer will advise the Inquiry and Investigation Committee of  
32 the pendency of a complaint together with the names of the complainant, respondent and  
33 any relevant witnesses. If any member of the Inquiry and Investigation Committee  
34 believes that he or she has a conflict of interest or if the Research Integrity Officer  
35 believes that there is the appearance of such a conflict, the relevant member of the  
36 committee will recuse him or her self and the Research Integrity Officer may appoint an  
37 *ad hoc* member of the committee to serve in the matter.  
38

### 39 4. Inquiry Process 40

41 During the inquiry the Research Integrity Officer, the Executive Secretary or an  
42 investigator will normally interview the complainant and relevant witnesses as well as  
43 examining relevant records and materials. The respondent may be interviewed at this

1 stage if conducting such an interview is conducive to the proper resolution of the case.  
2 Records of these interviews and all relevant evidence will be presented to the Inquiry  
3 and Investigation Committee which will evaluate the evidence and testimony obtained  
4 during the inquiry. After consultation with the Research Integrity Officer and a member  
5 of the staff of the General Counsel who shall review for legal sufficiency, the  
6 committee members will decide whether there is sufficient evidence of possible research  
7 misconduct to recommend further investigation.  
8

9 In making this determination, the committee shall decide—

- 10
- 11 a. Whether there is a reasonable basis for concluding that the allegation falls  
12 within the definition of research misconduct and
  - 13
  - 14 b. Whether preliminary information-gathering and preliminary fact-finding from  
15 the inquiry indicates that the allegation may have substance.  
16

17 The committee decision will be by majority vote. Any minority member of the  
18 committee is entitled to enter a separate report.  
19

## 20 C. The Inquiry Report

### 21 1. Elements of the Inquiry Report

22 The Inquiry report will be in writing and will include the following information—

- 23
- 24 a. the name and position of the respondent;
  - 25
  - 26 b. a description of the allegations of research misconduct;
  - 27
  - 28 c. a description of outside support involved, if any;
  - 29
  - 30 d. the basis for recommending that the alleged misconduct warrants or does not  
31 warrant an investigation;
  - 32
  - 33 e. a statement of the allegation to be investigated and  
34
  - 35 f. any comments on the report by the complainant.  
36

37 General Counsel will review the report for legal sufficiency.  
38  
39  
40  
41  
42  
43

1                   2.   Comments on the Draft Report by the Complainant  
2

3                   The Research Integrity Officer will provide the complainant with a copy of the draft  
4                   inquiry report for comment.  
5

6                   Within 14 calendar days of the receipt of the draft report, the complainant will provide  
7                   his or her comments, if any, to the Inquiry and Investigation Committee. Any comments  
8                   will become part of the inquiry report. Based on the comments, the Inquiry and  
9                   Investigation Committee may revise the report as appropriate.  
10

11                   3.   Inquiry Decision and Notification  
12

13                   If the Inquiry and Investigation Committee concludes that no investigation is  
14                   appropriate, the Research Integrity Officer will transmit the report and any comments to  
15                   the Deciding Official, who will make the determination of whether to accept that  
16                   conclusion. If the Deciding Official determines that no investigation is required the case  
17                   is closed. If the Deciding Official determines that investigation is required he or she  
18                   will return the matter to the Research Integrity Officer for investigation pursuant to  
19                   section VII, D below. Records of any decision will be maintained pursuant to section  
20                   XI below.  
21

22                   4.   Time Frame for Completing the Inquiry Report  
23

24                   The Inquiry and Investigation Committee will normally complete the inquiry and submit  
25                   its report in writing no more than forty-five (45) business days following its first  
26                   meeting on the case, unless the Research Integrity Officer approves an extension for  
27                   good cause. If the Research Integrity Officer approves an extension, the reason for the  
28                   extension will be entered into the records of the case and the report.  
29

30                   5.   Notification of Governmental Fund Sources  
31

32                   If the decision is made that the case should proceed to investigation, the Research  
33                   Integrity Officer shall notify any governmental agency covered by section IX below and  
34                   shall take any steps required by the regulations of that agency. A copy of this policy  
35                   shall accompany the report. The Research Integrity Officer may also notify, if  
36                   appropriate, other outside research sponsors.  
37

38                   6.   Notice to Respondent  
39

40                   If the respondent has not been previously notified of the complaint or interviewed with  
41                   respect thereto, the Research Integrity Officer will notify him or her in writing of the  
42                   pending case at the close of the Inquiry stage. In any event, the Research Integrity  
43                   Officer will advise the respondent in writing at this point as to whether an investigation

1 will be conducted. The Research Integrity Officer will provide the respondent with a  
2 copy of this policy and will point out his or her obligation to adhere to the process.  
3

#### 4 D. Conducting the Investigation 5

##### 6 1. Purpose of the Investigation 7

8 The purpose of the investigation is to explore in detail the allegations, to examine the  
9 evidence in depth, and to determine specifically whether research misconduct has been  
10 committed and, if so, by whom. The investigation will also determine whether there are  
11 additional instances of possible misconduct that would justify broadening the scope  
12 beyond the initial allegations and any additional issues identified by the Research  
13 Integrity Officer. The findings of the investigation will be set forth in an investigation  
14 report.  
15

##### 16 2. Sequestration of the Records 17

18 The Research Integrity Officer will take all reasonable steps to immediately sequester  
19 any additional pertinent records that were not previously sequestered during the inquiry.  
20 This sequestration should occur before or at the time the respondent is notified that an  
21 investigation has begun. The procedures to be followed for sequestration during the  
22 investigation are the same procedures that apply during the inquiry. The Respondent  
23 may have supervised access to the sequestered material for purposes of preparing his  
24 case.  
25

##### 26 3. Investigation Process 27

28 The investigation shall begin within fifteen (15) days of the decision to proceed unless  
29 an extension is granted by the Research Integrity Officer for good cause. Any such  
30 extension will be documented in the file.  
31

32 The Research Integrity Officer, the Executive Secretary and any investigator will collect  
33 any additional evidence and interview any additional witnesses. The investigation will  
34 normally involve examination of all records relevant to the case. If the following  
35 persons were not interviewed during the inquiry process or if the Research Integrity  
36 Officer believes that further interviews are desirable the Research Integrity Officer,  
37 Executive Secretary or investigator will interview the complainant, the respondent, and  
38 other individuals who might have information regarding aspects of the allegations  
39 including any witnesses identified by the Respondent. All interviews will be recorded.  
40 Copies of the recording will be prepared, provided to the interviewed party for comment  
41 and included as part of the investigatory file.  
42  
43

1 4. Review and Finding by the Inquiry and Investigation Committee

2  
3 The Research Integrity Officer will present the record of the investigation, copies of all  
4 interviews, copies of any written statements prepared by any witness, and all relevant  
5 evidence to the Inquiry and Investigation Committee.  
6

7 The Inquiry and Investigation Committee may direct the Research Integrity Officer to  
8 undertake further investigation or may itself elect to hear from one or more witnesses.  
9 If the respondent requests an interview by the Inquiry and Investigation Committee, the  
10 committee will provide for such an interview provided that it can be scheduled in such a  
11 way as to meet the deadlines set for the activity of the Committee. This interview is not  
12 a hearing.  
13

14 Based upon the evidence presented to it, the Inquiry and Investigation Committee will  
15 make a finding as to whether research misconduct occurred. Findings will be made by a  
16 majority vote of the committee and will be set forth in a written report. Any minority  
17 member may provide a minority report.  
18

19 E. The Investigation Report

20  
21 1. Elements of the Investigation Report  
22

23 The investigation report will be in writing and include:  
24

- 25 a. Allegations. Describe the nature of the original allegations of research  
26 misconduct;  
27
- 28 b. Outside support. Describe and document any outside support, including, for  
29 example, any grant numbers, grant applications, contracts, and publications  
30 listing such support.  
31
- 32 c. Institutional charge. Describe the specific allegations of research misconduct  
33 which were the actual subject of the investigation.  
34
- 35 d. Records and evidence. Identify and summarize the records and evidence  
36 reviewed, and identify any evidence taken into custody but not reviewed.  
37
- 38 e. Statement of findings. For each separate allegation of research misconduct  
39 identified during the investigation, provide a finding as to whether research  
40 misconduct did or did not occur, and if so—  
41  
42 (1) Identify whether the research misconduct was falsification, fabrication, or  
43 plagiarism:

- (2) Determine if the misconduct was intentional, knowing, or in reckless disregard;
- (3) Summarize the facts and the analysis which support the conclusion and consider the merits of any affirmative defenses or factors in mitigation by the respondent;
- (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 any outside agencies.

## 2. Comments on the Report

### a. Respondent

The Research Integrity Officer will provide the respondent with a draft copy of the investigation report for comment and rebuttal. At the same time, the Research Integrity Officer will provide the respondent with the inquiry report. The respondent will be allowed fourteen (14) days to review and comment on both reports. The respondent's comments will be attached to the investigation report. The final version of the investigative report will take into account the respondent's comments in addition to all the other evidence.

### b. General Counsel

The investigation report will be transmitted to the General Counsel for a review of its legal sufficiency.

## 3. Hearing Election

If the Inquiry and Investigation Committee concludes that the respondent engaged in research misconduct, the Research Integrity Officer shall advise the respondent that he or she may elect to take the matter to a Hearing Panel prior to submission of the findings to the Deciding Official.

## 4. Deciding Official Review and Decision

If the Inquiry and Investigation Committee concludes that no research misconduct occurred, the report of that decision will be delivered to the Deciding Official. The Deciding Official may accept the findings of the investigation, in whole or in part, may

1 reject the findings, or may remit the report to the Inquiry and Investigation Committee  
2 for further review. In the event that the case is remitted to the Inquiry and Investigation  
3 Committee, the Deciding Official will note any deficiencies found in the investigative  
4 report. If the Deciding Official accepts the findings, he or she will direct the Research  
5 Integrity Officer to take steps to notify any interested persons or organizations of the  
6 conclusion, take any steps appropriate to restore the reputation of the respondent and  
7 close the file.

8  
9 If the Inquiry and Investigation Committee concludes that research misconduct did  
10 occur and the respondent has not elected to seek a Hearing Panel, the Deciding Official  
11 will make the final determination whether to accept the investigation report and its  
12 findings. If the Deciding Official accepts the report, the Deciding Official will  
13 determine appropriate institutional actions as described in section VIII below.

14  
15 If the Inquiry and Investigation Committee concludes that research misconduct did  
16 occur, the respondent has not elected to seek a Hearing Panel, and if the Deciding  
17 Official rejects that finding, the Deciding Official will explain in detail the basis for  
18 rendering a decision different from that of the committee. The Deciding Official's  
19 explanation should be consistent with these policies and the evidence reviewed and  
20 analyzed by the Inquiry and Investigation Committee. This decision will be reported to  
21 appropriate governmental authorities as set forth in section IX below.

## 22 23 5. Time Limit for Completing the Investigation Report

24  
25 An investigation should ordinarily be completed within one hundred and twenty (120)  
26 days of its initiation. This includes conducting the investigation, preparing the report of  
27 findings, making the draft report available to the respondent for comment, and approval  
28 of the report by the Deciding Official if no hearing is required or sought.

## 29 30 F. Hearing

31  
32 If the Inquiry and Investigation Committee concludes that research misconduct occurred  
33 and the respondent elects a Hearing Panel, the following procedures govern.

### 34 35 1. Selection of Panel

36  
37 The Research Integrity Officer shall maintain an array of University employees chosen  
38 by the Faculty Senate Committee on Committees to serve in research integrity hearings.  
39 Hearing Panels will have three members. The respondent will choose one member of  
40 the Hearing Panel from the array. The Research Integrity Officer will then choose one  
41 member of the array. The final member of the Hearing Panel will be selected from the  
42 array by the two members previously selected. Panel members will be selected within  
43 fourteen (14) days of the Respondent's request for a hearing.



1 If any member of the Hearing Panel believes that he or she has a conflict of interest, the  
2 relevant member of the Panel will recuse him or her self and the party appointing them  
3 will be required to designate another member of the array.  
4

5 All members of the panel must agree on a date within thirty (30) days of their  
6 appointment for their first hearing. If a member is unable to meet within this time, the  
7 appointing party must name another member from the array.  
8

## 9 2. Charge to the Panel

10 The Research Integrity Officer will prepare a charge to the Panel setting forth the  
11 precise nature of the research misconduct alleged. A copy of that charge will be  
12 provided to the respondent when the Officer chooses his or her member of the panel.  
13 The respondent will prepare a statement asserting any defense and specifying any  
14 affirmative defenses or factors in mitigation which he or she may have. A copy of the  
15 respondent's statement will be delivered to the Research Integrity Officer five (5) days  
16 prior to the hearing. Both the charge and the respondent's statement will be delivered to  
17 the Panel by the Research Integrity Officer at the beginning of the first hearing in the  
18 matter.  
19

## 20 3. Representation of Parties

21 The General Counsel's office of the University will represent the University. The  
22 Respondent may retain counsel or seek the assistance of a non-lawyer representative.  
23 See section VI, C.  
24

## 25 4. Functions of the Panel

26 The Panel hears the evidence presented by both parties on the allegation of research  
27 misconduct and on any defenses or mitigation. It receives evidence from witnesses,  
28 documents and other appropriate sources. It does not conduct any independent  
29 investigation. It is bound by these policies and must make its determinations based on  
30 the standards set forth herein. It is not bound by the formal rules of evidence and  
31 procedure, but must afford all parties fairness in the presentation of evidence and  
32 argument. The Panel makes findings of fact concerning whether or not research  
33 misconduct occurred and if so, who committed that misconduct. It also makes findings  
34 as to whether any affirmative defenses or factors in mitigation have been proven. It  
35 does not make any judgment concerning the appropriate sanction, if any, for any  
36 misconduct. Nor does it substitute its judgment for the judgments embodied in this  
37 policy. The proceedings before the Panel shall be recorded.  
38  
39  
40  
41  
42  
43

1           5. Default

2  
3           If the respondent does not cooperate in constituting the Panel or does not appear for the  
4           hearing despite notice thereof, the Panel will not be constituted or will be disbanded and  
5           the findings of the Inquiry and Investigation Committee will be sent to the Deciding  
6           Official as if the request for hearing had never been made.

7  
8           6. Findings

9  
10          The Hearing Panel, after receiving all the evidence offered by the parties, shall make  
11          written findings. The findings will include:

- 12  
13           a. Allegations. Set forth the charge of research misconduct;
- 14  
15           b. Outside support. Describe and document any outside support, including, for  
16           example, any grant numbers, grant applications, contracts, and publications  
17           listing such support.
- 18  
19           c. Records and evidence. Identify and summarize the records and evidence  
20           reviewed, and identify any evidence taken into custody but not reviewed.
- 21  
22           d. Statement of findings. For each separate allegation of research misconduct  
23           identified in the charge, provide a finding as to whether research misconduct  
24           did or did not occur, and—
- 25                   (1) Identify whether, if there was research misconduct, the research  
26                   misconduct was falsification, fabrication, or plagiarism
- 27  
28                   (2) Identify whether, if there was research misconduct, it was intentional,  
29                   knowing, or in reckless disregard;
- 30  
31                   (3) Identify the person(s) responsible for the misconduct, if any;
- 32  
33                   (4) State whether any affirmative defense or matter in mitigation has been  
34                   proved by the respondent;
- 35  
36                   (5) Summarize the facts and the analysis which support the conclusion;
- 37  
38                   (6) Identify whether any publications need correction or retraction or whether  
39                   other corrective action needs to be taken; and
- 40  
41                   (7) List any current support or known applications or proposals for support  
42                   that the respondent has pending with any outside agencies.
- 43

1 Findings shall be made by a majority of the Panel with minority findings noted as  
2 appropriate. The findings shall be signed by all members of the panel. Findings shall  
3 be directed to the Deciding Official. The Research Integrity Officer may provide a form  
4 to the panel on which to record its findings. A copy of that form will be provided to the  
5 respondent.  
6

#### 7 7. Time Limits 8

9 The panel shall complete its process within one hundred (100) days of the appointment  
10 of the first panel member by the Respondent unless there is good cause for a delay. If  
11 there is good cause the Hearing Panel shall explain that cause in its report.  
12

### 13 VIII. Deciding Official Review and Decision 14

15 The Deciding Official will make the final determination whether to accept the inquiry,  
16 investigation report or Panel decision. If this determination varies from that of the  
17 Committee or Panel, the Deciding Official will explain in writing the basis for rendering a  
18 different decision. The Deciding Official's explanation should be consistent with this policy.  
19 The Deciding Official may also return the report to the committee or panel with a request for  
20 further fact-finding or analysis.  
21

22 If it is found that research misconduct has occurred, the Deciding Official will determine  
23 what action will be taken by the University. The actions may include but are not limited to:  
24

- 25 A. withdrawal or correction of all pending or published abstracts and papers emanating  
26 from the work where research misconduct was found;  
27
- 28 B. removal of the responsible person from the particular project, letter of reprimand,  
29 special monitoring of future work, probation, suspension, salary reduction, or initiation  
30 of steps leading to possible rank reduction or termination of employment;  
31
- 32 C. restitution of funds as appropriate.  
33

34 In addition, the Deciding Official will determine whether law enforcement agencies,  
35 professional societies, professional licensing boards, editors of journals in which falsified  
36 reports may have been published, collaborators of the respondent in the work, or other  
37 relevant parties should be notified of the outcome of the case.  
38

39 The Deciding Official's determination, together with all previous reports constitutes the final  
40 record. If governmental fund sources are involved in the case, a copy of the record will be  
41 forwarded to those agencies as provided in section IX below. If the research is supported by  
42 non-governmental entities, a copy of the report will be sent to them as well. A copy will  
43 also be provided to the respondent.  
44

1 When a final decision on the case has been reached, the Research Integrity Officer will  
2 notify both the respondent and the complainant in writing of the decision. The Research  
3 Integrity Officer is responsible for ensuring compliance with all notification requirements of  
4 funding or sponsoring agencies.  
5

## 6 IX. Requirements for Reporting to governmental agencies 7

8 Certain governmental agencies, by law or regulation, require that institutions such as West  
9 Virginia University applying for or receiving their funds report inquiries and investigations  
10 of research misconduct to them. The provisions of this section apply only to those agencies.  
11

### 12 A. Decision to investigate 13

14 West Virginia University's decision to initiate an investigation must be reported in writing to  
15 appropriate official within an governmental agency which has funded the work in question.  
16 The relevant regulations of the agency are to be followed in making these reports. This  
17 notice will be sent within thirty (30) days of the decision to investigate.  
18

### 19 B. Termination of investigation 20

21 If West Virginia University plans to terminate an inquiry or investigation for any reason  
22 without completing all relevant requirements of the relevant governmental regulations, the  
23 Research Integrity Officer will submit a report of the planned termination to agency,  
24 including a description of the reasons for the proposed termination.  
25

### 26 C. Inability to complete timely investigation 27

28 If West Virginia University determines that it will not be able to complete the investigation  
29 in one hundred and twenty (120) days, the Research Integrity Officer will submit to the  
30 relevant government agency a request for an extension that explains the delay, reports on the  
31 progress to date, estimates the date of completion of the report, and describes other  
32 necessary steps to be taken. If the request is granted, the Research Integrity Officer will file  
33 periodic progress reports as requested by the relevant agency.  
34

### 35 D. Immediate notice 36

37 The Research Integrity Officer will notify the relevant governmental agency at any stage of  
38 the inquiry or investigation if:  
39

- 40 1. there is an immediate health hazard involved;
- 41
- 42 2. there is an immediate need to protect Federal funds or equipment;
- 43

- 1           3. there is an immediate need to protect the interests of the person(s) making the  
2           allegations or of the individual(s) who is the subject of the allegations as well as  
3           his/her co-investigators and associates, if any;
- 4
- 5           4. it is probable that the alleged incident is going to be reported publicly;
- 6
- 7           5. the allegation involves a public health sensitive issue, *e.g.*, a clinical trial; or
- 8
- 9           6. there is a reasonable indication of possible criminal violation. In this instance, West  
10          Virginia University must inform relevant governmental agency within 24 hours of  
11          obtaining that information.
- 12

#### 13   E. Report of Investigation

14  
15   In all cases in which an investigation took place, the Research Integrity Officer will make a  
16   written report of the outcome to the relevant governmental agency. That report will include:

- 17
- 18          1. Investigation Report. Including a copy of the report, all attachments, and any  
19          appeals.
- 20
- 21          2. Hearing Panel findings. Including a copy of the findings of the Panel if one  
22          occurred.
- 23
- 24          3. Final University action. Stating whether the institution found research misconduct,  
25          and if so, who committed the misconduct.
- 26
- 27          4. Findings. Stating whether the University accepts the investigation's or hearing's  
28          findings.
- 29
- 30          5. University administrative actions. Describe any pending or completed  
31          administrative actions against the respondent.
- 32

#### 33   F. Admission of misconduct

34  
35   When governmental funding or applications for funding are involved and an admission of  
36   research misconduct is made, the Research Integrity Officer will contact the relevant agency  
37   for consultation and advice. When the case involves governmental funds, the University  
38   cannot accept an admission of research misconduct as a basis for closing a case or not  
39   undertaking an investigation without prior approval from the relevant agency.

1 **X. Other Considerations**

2  
3 A. Termination of Employment or Resignation Prior to Completing Inquiry or  
4 Investigation

5  
6 The termination of the respondent's employment, by resignation or otherwise, before or after  
7 an allegation of possible research misconduct has been reported, will not preclude or  
8 terminate the misconduct procedures. If the respondent, without admitting to the  
9 misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after  
10 an allegation has been reported, or during an inquiry or investigation, the inquiry or  
11 investigation will proceed. If the respondent refuses to participate in the process after  
12 resignation, the Inquiry and Investigation Committee will use its best efforts to reach a  
13 conclusion concerning the allegations, noting in its report the respondent's failure to  
14 cooperate and its effect on the Inquiry and Investigation Committee's review of all the  
15 evidence.

16  
17 B. Allegations Not Made in Good Faith

18  
19 If relevant, the Deciding Official will determine whether the complainant's allegations of  
20 research misconduct were made in good faith. If an allegation was not made in good faith,  
21 the Deciding Official will determine whether any administrative action should be taken  
22 against the complainant.

23  
24 C. Interim Administrative Actions

25  
26 Officials of West Virginia University will take interim administrative actions, as appropriate,  
27 to protect governmental funds and ensure that the purposes of the Federal financial  
28 assistance are carried out.

29  
30 **XI. Record Retention**

31  
32 A. After completion of a case and all ensuing related actions, the Research Integrity Officer  
33 will prepare a complete file. This file will include:

- 34  
35 1. copies of all evidence and other materials furnished to or sequestered by the  
36 Research Integrity Officer, Inquiry and Investigation Committee or Hearing panel.  
37  
38 a. the Research Integrity Officer may exclude those records that are not relevant  
39 to the proceeding or those records that duplicate other records that are being  
40 retained.  
41  
42 b. the Research Integrity Officer will retain documentation of the determination  
43 of irrelevant or duplicate records;

- 1           2. The inquiry report and final documents (not drafts) produced in the course of  
2           preparing that report, including the documentation of any decision not to investigate  
3           if such a decision was made;  
4
- 5           3. The investigation report and all records (other than drafts of the report) in support  
6           of that report, including the recordings or transcriptions of each interview  
7           conducted;  
8
- 9           4. The complete record of any Hearing panel proceeding;  
10
- 11          5. A complete record of the actions of the Deciding Official.  
12

13       B. Retention time  
14

15       Unless custody of the items above has been transferred to the relevant governmental agency  
16       or that agency has advised the University in writing that it no longer needs to retain the  
17       records or unless the University is required by law or contractual obligation to keep records  
18       for a longer period of time, the University must maintain records of research misconduct  
19       proceedings in a secure manner for 7 years after completion of the proceeding or the  
20       completion of any agency proceeding involving the research misconduct allegation,  
21       whichever is later.  
22

23       C. Annual reports  
24

25       The Research Integrity Officer shall provide an annual report on the status of pending  
26       matters under this policy. Unredacted copies of these reports shall go to all Deciding  
27       Officials.  
28  
29  
30  
31