

1 **I. Introduction**

2
3 A. General Policy

4
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

11
12 This policy and its procedures apply to all individuals, including faculty, students and staff
13 at West Virginia University engaged in research, research-training or application for
14 research funding. This policy applies to any person paid by, under the control of, or
15 affiliated with the University, including but not limited to scientists, trainees, technicians
16 and other staff members, students, fellows, guest researchers, or collaborators at West
17 Virginia University. For persons subject to sanctions under this policy, see Section IV,
18 Jurisdiction below.

19
20 The policy and procedures will be followed when an allegation of possible research
21 misconduct is received by an institutional official.

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

25
26 **II. Definitions**

27
28 The following definitions apply only to this policy.

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

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

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

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

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

1 misconduct or of inadequate institutional response thereto or has cooperated in good
2 faith with an investigation of such allegation. Any act of retaliation taken by a person
3 or entity not within the control of West Virginia University is outside the scope of this
4 policy.
5

6 **III. Requirements of Findings**

7
8 A finding of research misconduct under this policy requires that—
9

- 10 A. The conduct constitutes research misconduct;
- 11
- 12 B. The conduct is a significant departure from accepted practices of the relevant academic
13 community;
- 14
- 15 C. The misconduct was committed intentionally, knowingly, or recklessly; and
- 16
- 17 D. The allegation be proven by a preponderance of the evidence.
18

19 **IV. Jurisdiction**

20
21 All faculty and staff of the University engaged in research, regardless of the source of funding
22 for that research, are subject to this Policy. All students engaged in research activities which
23 result in the publication of research findings are also subject to this Policy. All contractors,
24 subcontractors and other persons or entities doing research under the egis of the University are
25 subject to this Policy.
26

27 **V. Evidence and burden of proof**

28
29 The following evidentiary standards apply to findings made under this policy.
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- 31 A. Standard of proof. Research misconduct or affirmative defense must be proved by a
32 preponderance of the evidence.
33
- 34 B. Burden of proof.
35
 - 36 1. West Virginia University has the burden of proof for making a finding of research
37 misconduct. That burden may be discharged either through the presentation of
38 affirmative evidence of misconduct or through the presentation of evidence that the
39 respondent has destroyed records as those acts are defined above.
 - 40
 - 41 2. The respondent has the burden of proving any affirmative defenses raised by the
42 respondent.
43

- 1 3. The respondent has the burden of proving by a preponderance of the evidence any
2 mitigating factors that are relevant to a decision to impose sanctions following a
3 research misconduct proceeding.

4 **VI. Rights and Responsibilities of Participants**

5
6 A. Research Integrity Officer

7
8 The President of West Virginia University or the President's designee shall appoint the
9 Research Integrity Officer who will have primary responsibility for implementation of the
10 procedures set forth in this policy. The Research Integrity Officer will be a University
11 employee who is well qualified to handle the procedural requirements involved and is
12 sensitive to the varied demands made on those who conduct research, those who are accused
13 of misconduct, and those who report apparent misconduct in good faith.

14
15 The Research Integrity Officer will appoint the Inquiry and Investigation Committee and
16 will maintain an array of persons appointed by the Faculty Senate Committee on
17 Committees to serve as members of Hearing Panels (Research Integrity Committee). The
18 Research Integrity Officer will provide training to the Inquiry and Investigation Committee
19 and the array from whom Hearing Panel members are chosen on the content of this policy
20 and relevant laws touching on research misconduct.

21
22 The Research Integrity Officer investigates allegations of alleged research misconduct and
23 may appoint additional investigators to gather evidence in such cases. The Research
24 Integrity Officer will ensure that necessary and appropriate expertise is secured to carry out
25 a thorough and authoritative evaluation of the relevant evidence in an inquiry or
26 investigation. The Research Integrity Officer will attempt to ensure that appropriate
27 confidentiality is maintained throughout the proceedings as described below. The Research
28 Integrity Officer will present evidence garnered to the Inquiry and Investigation Committee.
29 The Research Integrity Officer is also responsible for maintaining files of all documents and
30 evidence and for the confidentiality and the security of the files. These records shall be
31 treated as exempt for purposes of disclosure under W. Va. Code 29B-1-1 *et seq.* They shall
32 be maintained for a period of at least seven years after the completion of any inquiry
33 instituted pursuant to these procedures. The Research Integrity Officer shall file an annual
34 assurance in the Office of Research Integrity of the Public Health Service, and any other
35 governmental agency requiring such an assurance, that the University is in compliance with
36 their requirements concerning research misconduct.

37
38 The Research Integrity Officer will strive to insure fairness to the University and all
39 participants in cases of alleged research misconduct.

40
41 The Research Integrity Officer may consult, in his or her discretion, any employee or officer
42 of West Virginia University or any entity under its control in order to carry out his or her
43 responsibilities under this policy.
44

1 The Research Integrity Officer shall advise all West Virginia University personnel in
2 complying with these procedures and with applicable standards imposed by government or
3 external funding sources. The Research Integrity Officer will report to all external sources
4 of funding as set forth in section IX of this policy and as required by federal or state
5 regulations.

6
7 B. Complainant

8
9 The complainant, if known, will have an opportunity to give recorded testimony to the
10 Research Integrity Officer, the Executive Secretary or any investigator for consideration by
11 the Inquiry and Investigation Committee. The complainant may also be called upon to
12 provide live testimony to any Hearing Panel convened in the matter. The complainant has
13 the right to review portions of the inquiry report pertinent to his/her allegations or testimony
14 (sections VII, C, 2 and VII, D, 3), to be informed of the results of the process (section VIII,
15 C), and to be protected from retaliation for good faith allegations (section VI, B). The
16 complainant is entitled to protection afforded by the confidentiality provisions of this policy
17 (section VI, E).

18
19 The complainant is responsible for making allegations in good faith, maintaining
20 confidentiality to the fullest extent permitted by law, and cooperating with an inquiry,
21 investigation or hearing proceeding in a timely manner.

22
23 C. Deciding Official

24
25 The Deciding Official will receive the inquiry or investigation reports and any written
26 comments made by the respondent or the complainant. Sections VII, C, 3; VII, E, 4; and
27 VIII. If the respondent elects to request a Hearing Panel, the Deciding Official will receive
28 the report of findings of that Panel. Section VIII. The Deciding Official may accept or
29 reject the reports, in whole or in part, and order further action as set forth in sections VII, C,
30 3; VII, E, 4; and VIII below. If the final report in the matter finds that the respondent has
31 committed research misconduct, the Deciding Official may, in his or her discretion, consult
32 with the Research Integrity Officer or other appropriate officials and will determine whether
33 to impose sanctions, or whether to take other appropriate administrative actions pursuant to
34 section VIII below.

35
36 The Deciding Official may consult, in his or her discretion, with any employee or officer of
37 West Virginia University or any entity under its control in order to carry out his or her
38 responsibilities under this policy.

39
40 D. Investigator

41
42 The Investigator will be appointed by the Research Integrity Officer. The Investigator will
43 maintain the records required under this Policy and will participate in inquiries and
44 investigations with the Research Integrity Officer. He or she will also undertake further

1 activities as requested by the Inquiry and Investigation Committee, Research Integrity
2 Officer or the Deciding Official.

3
4 E. Hearing Panel

5
6 A Hearing Panel will be convened at the request of a respondent if the Inquiry and
7 Investigation Committee concludes, after investigation, that the respondent has engaged in
8 research misconduct (Section VII, E, 3 and VII, F). The Hearing Panel will be selected as
9 set forth in Sections V, A and VII, F, 1. The Panel's procedures are set forth in Section VII,
10 F.

11
12 F. Inquiry and Investigation Committee

13
14 The Inquiry and Investigation Committee will be appointed by the Research Integrity
15 Officer. Committees will be appointed for West Virginia University and for the West
16 Virginia University Institute of Technology. The Committee will receive reports and
17 evidence from the Research Integrity Officer, the Investigator or any other person appointed
18 by the Research Integrity Officer and will decide whether investigations are warranted and
19 whether research misconduct has occurred. The procedures of the Committee are set forth
20 in Sections VII, B; VII, C; VII, D; and VII, E.

21
22 G. Respondent

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

36
37 The respondent is responsible for maintaining confidentiality to the fullest extent permitted
38 by law and cooperating with the conduct of an inquiry, investigation or hearing in a timely
39 manner. Failure to cooperate in a timely manner may result in waiver of respondent's rights
40 as set forth above.

41
42 If the respondent is not found guilty of research misconduct, the University shall offer,
43 where appropriate, reasonable steps to provide assistance in restoring respondent's
44 reputation.

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2
3 **VII. General Policies and Principles**
4

5 A. Responsibility to Report Misconduct
6

7 All employees or individuals associated with West Virginia University should report
8 observed, suspected, or apparent research misconduct to the Research Integrity Officer. If
9 an individual is unsure whether a suspected incident falls within the definition of research
10 misconduct, he or she may contact the Research Integrity Officer to discuss the suspected
11 misconduct informally. If the circumstances described by the individual do not meet the
12 definition of research misconduct, the Research Integrity Officer may refer the individual or
13 allegation to other offices or officials with responsibility for resolving the problem.
14

15 At any time prior to the initiation of an inquiry, an employee may have confidential
16 discussions and consultations about concerns of possible misconduct with the Research
17 Integrity Officer and will be counseled about appropriate procedures for reporting
18 allegations.
19

20 B. Protecting the Complainant and others
21

22 The Research Integrity Officer will monitor the treatment of individuals who bring
23 allegations of misconduct or of inadequate institutional response thereto, and those who
24 cooperate in inquiries, investigations or hearings. The Research Integrity Officer will take
25 reasonable steps to ensure that these persons will not be retaliated against by West Virginia
26 University and will review instances of alleged retaliation for appropriate action.
27

28 Employees should immediately report any alleged or apparent retaliation to the Research
29 Integrity Officer.
30

31 Also West Virginia University will protect the privacy of those who report misconduct in
32 good faith to the maximum extent possible consistent with applicable law. The complainant
33 is entitled to the protection afforded by the confidentiality provisions of this policy. The
34 complainant will be advised that if the matter is referred to a Hearing Panel and the
35 complainant's testimony is required or if applicable law otherwise requires, confidentiality
36 cannot be guaranteed. West Virginia University will undertake diligent efforts to protect the
37 positions and reputations of those persons who, in good faith, make allegations.
38

39 C. Protecting the Respondent
40

41 Inquiries, investigations and hearings will be conducted in a manner that will ensure fair
42 treatment to the respondent. Confidentiality will be maintained to the extent possible
43 without compromising public health and safety or thoroughly carrying out the inquiry,
44 investigation or hearing. Respondents accused of Research misconduct may consult with

1 legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case)
2 to seek advice and may bring the counsel or adviser to interviews, meetings or hearings on
3 the case. The counsel or advisor may present evidence on behalf of the respondent before
4 any Hearing Panel in the matter and may ask questions of any other witness called during
5 proceedings before such a Panel.
6

7 D. Cooperation with Inquiries and Investigations

8
9 All West Virginia University employees, ~~and~~ the employees of entities under the control of
10 the University, or who have contracted with the University to do research will cooperate
11 with the Research Integrity Officer, the Investigator, the Inquiry and Investigation
12 Committee, any Hearing Panel and other institutional officials in the review of allegations
13 and the conduct of inquiries, investigations and hearings. Such employees and entities have
14 an obligation to provide relevant evidence to the Research Integrity Officer, the Investigator,
15 the Inquiry and Investigation Committee, any Hearing Panel or other institutional officials
16 on misconduct allegations.
17

18 E. Confidentiality

- 19
20 1. All participants in the procedures set out in this policy, including the complainant
21 and respondent and all witnesses, shall maintain the confidentiality of those
22 procedures to the fullest extent permitted by law and by this policy.
23
24 2. Disclosure of the identity of respondents and complainants in research misconduct
25 proceedings is limited, to the extent possible, to those who need to know, consistent
26 with a thorough, competent, objective and fair Research Misconduct proceeding,
27 and as allowed by law. Provided, however, that West Virginia University must
28 disclose the identity of respondents and complainants to governmental funding
29 sources pursuant to their regulations and may be required to disclose that
30 information to other funding entities.
31
32 3. Except as may otherwise be prescribed by applicable law, confidentiality must be
33 maintained for any records or evidence from which research subjects might be
34 identified. Disclosure is limited to those who have a need to know to carry out a
35 research misconduct proceeding.
36

37 F. Admission of Research Misconduct

38
39 At any point in the Inquiry or Investigation, a Respondent may elect to admit the research
40 misconduct charged. Such an admission must be in writing and signed by the respondent.
41 The admission must address all the requirements of findings set forth in section III above.
42 The admission may also include any factors in mitigation which the respondent wishes to
43 advance. The admission will be presented for review by the Inquiry and Investigation
44 Committee. If that Committee finds that the admission meets the tests of this section and

1 finds that there is no other reason to reject the admission, it will prepare a report as required
2 by section VII, E below and forward the matter to the Deciding Official for decision under
3 section VII, E, 4 and VIII below.
4

5 **VIII. Procedure**

6 7 **A. Preliminary Assessment of Allegations** 8

9 Upon receiving an allegation of research misconduct, the Research Integrity Officer will
10 immediately assess the allegation to determine whether there is sufficient evidence to
11 warrant an inquiry, whether outside funding or application for outside funding is involved,
12 and whether the allegation, if true, falls under the definition of research misconduct. If the
13 Research Integrity Officer concludes that there is sufficient evidence and that the allegation
14 falls under the definition of research misconduct, he or she shall commence the inquiry
15 process. Anonymous complaints will be considered by the Research Integrity Officer. If
16 sufficient information is presented on which to make the finding required above, those
17 complaints will be treated as any other complaint.
18

19 **B. Conducting the Inquiry** 20

21 **1. Initiation and Purpose of the Inquiry** 22

23 In initiating the inquiry, the Research Integrity Officer should identify clearly the
24 original allegation and any related issues that should be evaluated. The purpose of the
25 inquiry is to make a preliminary evaluation of the available evidence and, if appropriate,
26 testimony or submissions of the respondent, complainant, and other relevant witnesses
27 to determine whether there is sufficient evidence of possible research misconduct to
28 warrant an investigation. The purpose of the inquiry is not to reach a final conclusion
29 about whether misconduct definitely occurred or who was responsible. The findings of
30 the inquiry must be set forth in an inquiry report.
31

32 **2. Sequestration of Records** 33

34 The Research Integrity Officer must take all reasonable steps to ensure that all original
35 records and materials relevant to the allegation are immediately secured. The Research
36 Integrity Officer may consult with relevant governmental funding agencies for advice
37 and assistance in this regard. The Research Integrity Officer will make appropriate
38 provision for access by the Respondent to these records consistent with maintaining
39 their authenticity and with applicable law.
40

41 **3. Convene Inquiry and Investigation Committee** 42

43 The Research Integrity Officer will advise the Inquiry and Investigation Committee of
44 the pendency of a complaint together with the names of the complainant, respondent

1 and any relevant witnesses. If any member of the Inquiry and Investigation Committee
2 believes that he or she has a conflict of interest or if the Research Integrity Officer
3 believes that there is the appearance of such a conflict, the relevant member of the
4 committee will recuse him or her self and the Research Integrity Officer may appoint an
5 *ad hoc* member of the committee to serve in the matter. If any party to the proceedings
6 believes that any member of the Inquiry and Investigation Committee has a conflict of
7 interest which would preclude a fair assessment of the complaint, that party should
8 bring the conflict to the attention of the Research Integrity Officer who will determine
9 whether the alleged conflict requires removal of the member from involvement in the
10 case. If any party to the proceedings believes that the Research Integrity Officer has a
11 conflict of interest which would preclude a fair assessment of the complaint, that party
12 should bring the conflict to the attention of the Research Integrity Officer who will
13 determine whether to recuse him or her self or to refer the matter to the relevant
14 Deciding Official, who shall determine whether it is necessary to appoint a special
15 Officer for the proceeding.

16 17 4. Inquiry Process

18
19 During the inquiry the Research Integrity Officer, the Investigator will normally
20 interview the complainant and relevant witnesses as well as examining relevant records
21 and materials. The respondent may be interviewed at this stage if conducting such an
22 interview is conducive to the proper resolution of the case. Records of these interviews
23 and all relevant evidence will be presented to the Inquiry and Investigation Committee
24 which will evaluate the evidence and testimony obtained during the inquiry. After
25 consultation with the Research Integrity Officer, the committee members will decide
26 whether there is sufficient evidence of possible research misconduct to recommend
27 further investigation.

28
29 In making this determination, the committee shall decide—

- 30
31 a. Whether there is a reasonable basis for concluding that the allegation falls
32 within the definition of research misconduct and
33
34 b. Whether preliminary information-gathering and preliminary fact-finding from
35 the inquiry indicates that the allegation may have substance.

36
37 The committee decision will be by majority vote. Any minority member of the
38 committee is entitled to enter a separate report.

39 40 C. The Inquiry Report

41 42 1. Elements of the Inquiry Report

43
44 The Inquiry report will be in writing and will include the following information—

- a. the name and position of the respondent;
- b. a description of the allegations of research misconduct;
- c. a description of outside support involved, if any;
- d. the basis for recommending that the alleged misconduct warrants or does not warrant an investigation;
- e. a statement of the allegation to be investigated and
- f. any comments on the report by the complainant.

2. Comments on the Draft Report by the Complainant

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

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

3. Inquiry Decision and Notification

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

4. Time Frame for Completing the Inquiry Report

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

1 5. Notification of Governmental Fund Sources
2

3 If the decision is made that the case should proceed to investigation, the Research
4 Integrity Officer shall notify any governmental agency covered by section IX below and
5 shall take any steps required by the regulations of that agency. A copy of this policy
6 shall accompany the report. The Research Integrity Officer may also notify, if
7 appropriate, other outside research sponsors.
8

9 6. Notice to Respondent
10

11 If the respondent has not been previously notified of the complaint or interviewed with
12 respect thereto, the Research Integrity Officer will notify him or her in writing of the
13 pending case at the beginning of the Investigation stage. The Research Integrity Officer
14 will provide the respondent with a copy of this policy and will point out his or her
15 obligation to adhere to the process.
16

17 D. Conducting the Investigation
18

19 1. Purpose of the Investigation
20

21 The purpose of the investigation is to explore in detail the allegations, to examine the
22 evidence in depth, and to determine specifically whether research misconduct has been
23 committed and, if so, by whom. The investigation will also determine whether there are
24 additional instances of possible misconduct that would justify broadening the scope
25 beyond the initial allegations and any additional issues identified by the Research
26 Integrity Officer. The findings of the investigation will be set forth in an investigation
27 report.
28

29 2. Sequestration of the Records
30

31 The Research Integrity Officer will take all reasonable steps to immediately sequester
32 any additional pertinent records that were not previously sequestered during the inquiry.
33 This sequestration should occur before or at the time the respondent is notified that an
34 investigation has begun. The procedures to be followed for sequestration during the
35 investigation are the same procedures that apply during the inquiry. The Respondent
36 may have supervised access to the sequestered material for purposes of preparing his
37 case.
38

39 3. Investigation Process
40

41 The investigation shall begin within fifteen (15) days of the decision to proceed unless
42 an extension is granted by the Research Integrity Officer for good cause. Any such
43 extension will be documented in the file.
44

1 The Research Integrity Officer, the Executive Secretary and any investigator will
2 collect any additional evidence and interview any additional witnesses. The
3 investigation will normally involve examination of all records relevant to the case. If
4 the following persons were not interviewed during the inquiry process or if the
5 Research Integrity Officer believes that further interviews are desirable the Research
6 Integrity Officer, Executive Secretary or investigator will interview the complainant,
7 the respondent, and other individuals who might have information regarding aspects of
8 the allegations including any witnesses identified by the Respondent. All interviews
9 will be recorded. Copies of the recording will be prepared, provided to the interviewed
10 party for comment and included as part of the investigatory file.

11 12 4. Review and Finding by the Inquiry and Investigation Committee

13
14 The Research Integrity Officer will present the record of the investigation, copies of all
15 interviews, copies of any written statements prepared by any witness, and all relevant
16 evidence to the Inquiry and Investigation Committee.

17
18 The Inquiry and Investigation Committee may direct the Research Integrity Officer to
19 undertake further investigation or may itself elect to hear from one or more witnesses.
20 If the respondent requests an interview by the Inquiry and Investigation Committee, the
21 committee will provide for such an interview provided that it can be scheduled in such a
22 way as to meet the deadlines set for the activity of the Committee. This interview is not
23 a hearing.

24
25 Based upon the evidence presented to it, the Inquiry and Investigation Committee will
26 make a finding as to whether research misconduct occurred. Findings will be made by
27 a majority vote of the committee and will be set forth in a written report. Any minority
28 member may provide a minority report.

29 30 E. The Investigation Report

31 32 1. Elements of the Investigation Report

33
34 The investigation report will be in writing and include:

- 35
36 a. Allegations. Describe the nature of the original allegations of research
37 misconduct;
- 38
39 b. Outside support. Describe and document any support from the Public Health
40 Service or other outside support, including, for example, any grant numbers,
41 grant applications, contracts, and publications listing such support.
- 42
43 c. Institutional charge. Describe the specific allegations of research misconduct
44 which were the actual subject of the investigation.

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- d. Records and evidence. Identify and summarize the records and evidence reviewed, and identify any evidence taken into custody but not reviewed.
 - e. Statement of findings. For each separate allegation of research misconduct identified during the investigation, provide a finding as to whether research misconduct did or did not occur, and if so—
 - (1) Identify whether the research misconduct was falsification, fabrication, or 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 the Public Health Service or any outside agencies.

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2. Comments on the Report

a. Respondent

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The Research Integrity Officer will provide the respondent with a draft copy of the investigation report for comment and rebuttal. This copy of the report may be redacted to preserve the confidentiality of the Complainant or any witnesses. 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.

1 3. Hearing Election
2

3 If the Inquiry and Investigation Committee concludes that the respondent engaged
4 in research misconduct, the Research Integrity Officer shall advise the respondent
5 that he or she may elect to take the matter to a Hearing Panel prior to submission of
6 the findings to the Deciding Official.
7

8 4. Deciding Official Review and Decision
9

10 If the Inquiry and Investigation Committee concludes that no research misconduct
11 occurred, the report of that decision will be delivered to the Deciding Official. The
12 Deciding Official may accept the findings of the investigation, in whole or in part,
13 may reject the findings, or may remit the report to the Inquiry and Investigation
14 Committee for further review. In the event that the case is remitted to the Inquiry
15 and Investigation Committee, the Deciding Official will note any deficiencies
16 found in the investigative report. If the Deciding Official accepts the findings, he
17 or she will direct the Research Integrity Officer to take steps to notify any
18 interested persons or organizations of the conclusion, take any steps appropriate to
19 restore the reputation of the respondent and close the file.
20

21 If the Inquiry and Investigation Committee concludes that research misconduct did
22 occur and the respondent has not elected to seek a Hearing Panel, the Deciding
23 Official will make the final determination whether to accept the investigation report
24 and its findings. If the Deciding Official accepts the report, the Deciding Official
25 will determine appropriate institutional actions as described in section VIII below.
26

27 If the Inquiry and Investigation Committee concludes that research misconduct did
28 occur, the respondent has not elected to seek a Hearing Panel, and if the Deciding
29 Official rejects that finding, the Deciding Official will explain in detail the basis for
30 rendering a decision different from that of the committee. The Deciding Official's
31 explanation should be consistent with these policies and the evidence reviewed and
32 analyzed by the Inquiry and Investigation Committee. This decision will be
33 reported to appropriate governmental authorities as set forth in section IX below.
34

35 5. Time Limit for Completing the Investigation Report
36

37 An investigation should ordinarily be completed within one hundred and twenty
38 (120) days of its initiation. Activities during this period include conducting the
39 investigation, preparing the report of findings, making the draft report available to
40 the respondent for comment, and approval of the report by the Deciding Official if
41 no hearing is required or sought. The Research Integrity Officer may approve, in
42 writing, an extension for good cause. If the Research Integrity Officer approves an
43 extension, the reason for the extension will be entered into the records of the case
44 and the report. If funding from a governmental agency, including the Public Health

1 Service, is involved, extensions must be approved by the relevant agency pursuant
2 to section X, C below
3

4 F. Hearing
5

6 If the Inquiry and Investigation Committee concludes that research misconduct
7 occurred and the respondent elects a Hearing Panel, the following procedures govern.
8

9 1. Selection of Panel
10

11 The Research Integrity Officer shall maintain an array of University employees chosen
12 by the Faculty Senate Committee on Committees (Research Integrity Committee) to
13 serve in research integrity hearings. Hearing Panels will have three members. The
14 respondent will choose one member of the Hearing Panel from the array. The Research
15 Integrity Officer will then choose one member of the array. The final member of the
16 Hearing Panel will be selected from the array by the two members previously selected.
17 Panel members will be selected within fourteen (14) days of the Respondent's request
18 for a hearing.
19

20 If any member of the Hearing Panel believes that he or she has a conflict of interest, the
21 relevant member of the Panel will recuse him or her self and the party appointing them
22 will be required to designate another member of the array. If any party to the
23 proceedings believes that any member of the proposed Hearing Panel has an conflict of
24 interest which would preclude a fair assessment of the complaint, that party should
25 bring the conflict to the attention of the Research Integrity Officer who will determine
26 whether the alleged conflict requires removal of the member from involvement in the
27 case.
28

29 All members of the panel must agree on a date within thirty (30) days of their
30 appointment for their first hearing. If a member is unable to meet within this time, the
31 appointing party must name another member from the array.
32

33 2. Charge to the Panel
34

35 The Research Integrity Officer will prepare a charge to the Panel setting forth the
36 precise nature of the research misconduct alleged. A copy of that charge will be
37 provided to the respondent when the Officer chooses his or her member of the panel.
38 The respondent will prepare a statement asserting any defense and specifying any
39 affirmative defenses or factors in mitigation which he or she may have. A copy of the
40 respondent's statement will be delivered to the Research Integrity Officer five (5) days
41 prior to the hearing. Both the charge and the respondent's statement will be delivered
42 to the Panel by the Research Integrity Officer at the beginning of the first hearing in the
43 matter.
44

1 3. Representation of Parties
2

3 The General Counsel’s office of the University will represent the University. The
4 Respondent may retain counsel or seek the assistance of a non-lawyer representative.
5 See section VI, C.
6

7 4. Functions of the Panel
8

9 The Panel hears the evidence presented by both parties on the allegation of research
10 misconduct and on any defenses or mitigation. It receives evidence from witnesses,
11 documents and other appropriate sources. It does not conduct any independent
12 investigation. It is bound by these policies and must make its determinations based on
13 the standards set forth herein. It is not bound by the formal rules of evidence and
14 procedure, but must afford all parties fairness in the presentation of evidence and
15 argument. The Panel makes findings of fact concerning whether or not research
16 misconduct occurred and if so, who committed that misconduct. It also makes findings
17 as to whether any affirmative defenses or factors in mitigation have been proven. It
18 does not make any judgment concerning the appropriate sanction, if any, for any
19 misconduct. Nor does it substitute its judgment for the judgments embodied in this
20 policy. The proceedings before the Panel shall be recorded.
21

22 5. Default
23

24 If the respondent does not cooperate in constituting the Panel or does not appear for the
25 hearing despite notice thereof, the Panel will not be constituted or will be disbanded and
26 the findings of the Inquiry and Investigation Committee will be sent to the Deciding
27 Official as if the request for hearing had never been made.
28

29 6. Findings
30

31 The Hearing Panel, after receiving all the evidence offered by the parties, shall make
32 written findings. The findings will include:
33

- 34 a. Allegations. Set forth the charge of research misconduct;
- 35
- 36 b. Outside support. Describe and document any outside support, including, for
37 example, any grant numbers, grant applications, contracts, and publications
38 listing such support.
- 39
- 40 c. Records and evidence. Identify and summarize the records and evidence
41 reviewed, and identify any evidence taken into custody but not reviewed.
42

- 1 d. Statement of findings. For each separate allegation of research misconduct
2 identified in the charge, provide a finding as to whether research misconduct
3 did or did not occur, and—
4
- 5 (1) Identify whether, if there was research misconduct, the research
6 misconduct was falsification, fabrication, or plagiarism
7
 - 8 (2) Identify whether, if there was research misconduct, it was intentional,
9 knowing, or in reckless disregard;
10
 - 11 (3) Identify the person(s) responsible for the misconduct, if any;
12
 - 13 (4) State whether any affirmative defense or matter in mitigation has been
14 proved by the respondent;
15
 - 16 (5) Summarize the facts and the analysis which support the conclusion;
17
 - 18 (6) Identify whether any publications need correction or retraction or whether
19 other corrective action needs to be taken; and
20
 - 21 (7) List any current support or known applications or proposals for support
22 that the respondent has pending with any outside agencies.
23

24 Findings shall be made by a majority of the Panel with minority findings noted as
25 appropriate. The findings shall be signed by all members of the panel. Findings shall
26 be directed to the Deciding Official. The Research Integrity Officer may provide a
27 form to the panel on which to record its findings. A copy of that form will be provided
28 to the respondent.
29

30 7. Time Limits 31

32 The panel shall complete its process within one hundred (100) days of the appointment
33 of the first panel member by the Respondent unless there is good cause for a delay.
34 Either the Office of the General Counsel or the Respondent may petition the Deciding
35 Official for an extension of this deadline.
36

37 IX. Deciding Official Review and Decision 38

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

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

- 3
4 A. withdrawal or correction of all pending or published abstracts and papers emanating
5 from the work where research misconduct was found;
6
7 B. removal of the responsible person from the particular project, letter of reprimand,
8 special monitoring of future work, probation, suspension, salary reduction, or initiation
9 of steps leading to possible rank reduction or termination of employment;
10
11 C. restitution of funds as appropriate.
12

13 In addition, the Deciding Official will determine whether law enforcement agencies,
14 professional societies, professional licensing boards, editors of journals in which falsified
15 reports may have been published, collaborators of the respondent in the work, or other
16 relevant parties should be notified of the outcome of the case.
17

18 The Deciding Official's determination, together with all previous reports constitutes the
19 final record. If governmental fund sources are involved in the case, a copy of the record will
20 be forwarded to those agencies as provided in section IX below. If the research is supported
21 by non-governmental entities, a copy of the report will be sent to them as well. A copy will
22 also be provided to the respondent.
23

24 When a final decision on the case has been reached, the Research Integrity Officer will
25 notify both the respondent and the complainant in writing of the decision. The Research
26 Integrity Officer is responsible for ensuring compliance with all notification requirements of
27 funding or sponsoring agencies.
28

29 **X. Requirements for Reporting to governmental agencies**

30
31 Certain governmental agencies, by law or regulation, require that institutions such as West
32 Virginia University applying for or receiving their funds report inquiries and investigations
33 of research misconduct to them. The provisions of this section apply only to those agencies.
34

35 **A. Decision to investigate**

36
37 West Virginia University's decision to initiate an investigation must be reported in writing
38 to appropriate official within the Office of Research Integrity of the Public Health Service or
39 any other governmental agency which has funded the work in question. The relevant
40 regulations of the agency are to be followed in making these reports. This notice will be sent
41 within thirty (30) days of the decision to investigate.
42

1 B. Termination of investigation
2

3 If West Virginia University plans to terminate an inquiry or investigation for any reason
4 without completing all relevant requirements of the relevant governmental regulations, the
5 Research Integrity Officer will submit a report of the planned termination to Office of
6 Research Integrity of the Public Health Service or other agency, including a description of
7 the reasons for the proposed termination.
8

9 C. Inability to complete timely investigation
10

11 If West Virginia University determines that it will not be able to complete the investigation
12 in one hundred and twenty (120) days, the Research Integrity Officer will submit to the
13 Office of Research Integrity of the Public Health Service or other relevant government
14 agency a request for an extension that explains the delay, reports on the progress to date,
15 estimates the date of completion of the report, and describes other necessary steps to be
16 taken. If the request is granted, the Research Integrity Officer will file periodic progress
17 reports as requested by the relevant agency.
18

19 D. Immediate notice
20

21 The Research Integrity Officer will notify the Office of Research Integrity of the Public
22 Health Service or any other relevant governmental agency at any stage of the inquiry or
23 investigation if:
24

- 25 1. there is an immediate health hazard involved;
- 26 2. there is an immediate need to protect Federal funds or equipment;
- 27 3. there is an immediate need to protect the interests of the person(s) making the
28 allegations or of the individual(s) who is the subject of the allegations as well as
29 his/her co-investigators and associates, if any;
- 30 4. it is probable that the alleged incident is going to be reported publicly;
- 31 5. the allegation involves a public health sensitive issue, *e.g.*, a clinical trial; or
32
- 33 6. there is a reasonable indication of possible criminal violation. In this instance, West
34 Virginia University must inform relevant governmental agency within 24 hours of
35 obtaining that information.
36
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1 E. Report of Investigation
2

3 In all cases in which an investigation took place, the Research Integrity Officer will make a
4 written report of the outcome to the Office of Research Integrity of the Public Health
5 Service or any other relevant governmental agency. That report will include:
6

- 7 1. Investigation Report. Including a copy of the report, all attachments, and any
8 appeals.
9
10 2. Hearing Panel findings. Including a copy of the findings of the Panel if one
11 occurred.
12
13 3. Final University action. Stating whether the institution found research misconduct,
14 and if so, who committed the misconduct.
15
16 4. Findings. Stating whether the University accepts the investigation's or hearing's
17 findings.
18
19 5. University administrative actions. Describe any pending or completed
20 administrative actions against the respondent.
21

22 F. Admission of misconduct
23

24 When governmental funding or applications for funding are involved and an admission of
25 research misconduct is made, the Research Integrity Officer will contact the Office of
26 Research Integrity of the Public Health Service or any other relevant agency for consultation
27 and advice. When the case involves governmental funds, the University cannot accept an
28 admission of research misconduct as a basis for closing a case or not undertaking an
29 investigation without prior approval from the relevant agency.
30

31 **XI. Other Considerations**
32

33 A. Termination of Employment or Resignation Prior to Completing Inquiry or
34 Investigation
35

36 The termination of the respondent's employment, by resignation or otherwise, before or after
37 an allegation of possible research misconduct has been reported, will not preclude or
38 terminate the misconduct procedures. If the respondent, without admitting to the
39 misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after
40 an allegation has been reported, or during an inquiry or investigation, the inquiry or
41 investigation will proceed. If the respondent refuses to participate in the process after
42 resignation, the Inquiry and Investigation Committee will use its best efforts to reach a
43 conclusion concerning the allegations, noting in its report the respondent's failure to

1 cooperate and its effect on the Inquiry and Investigation Committee's review of all the
2 evidence.

3
4 **B. Allegations Not Made in Good Faith**

5
6 If relevant, the Deciding Official will determine whether the complainant's allegations of
7 research misconduct were made in good faith. If an allegation was not made in good faith,
8 the Deciding Official will determine whether any administrative action should be taken
9 against the complainant.

10
11 **C. Interim Administrative Actions**

12
13 Officials of West Virginia University will take interim administrative actions, as
14 appropriate, to protect governmental funds and ensure that the purposes of the Federal
15 financial assistance are carried out.

16
17 **XII. Record Retention**

18
19 **A.** After completion of a case and all ensuing related actions, the Research Integrity
20 Officer will prepare a complete file. This file will include:

- 21
22 1. copies of all evidence and other materials furnished to or sequestered by the
23 Research Integrity Officer, Inquiry and Investigation Committee or Hearing panel.
24
25 a. the Research Integrity Officer may exclude those records that are not relevant
26 to the proceeding or those records that duplicate other records that are being
27 retained.
28
29 b. the Research Integrity Officer will retain documentation of the determination
30 of irrelevant or duplicate records;
31
32 2. The inquiry report and final documents (not drafts) produced in the course of
33 preparing that report, including the documentation of any decision not to
34 investigate if such a decision was made;
35
36 3. The investigation report and all records (other than drafts of the report) in support
37 of that report, including the recordings or transcriptions of each interview
38 conducted;
39
40 4. The complete record of any Hearing panel proceeding;
41
42 5. A complete record of the actions of the Deciding Official.
43

1 B. Retention time
2

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

10 C. Annual reports
11

12
13 The Research Integrity Officer shall provide an annual report on the status of pending
14 matters under this policy. Unredacted copies of these reports shall go to all Deciding
15 Officials.
16
17
18
19