

E40: Research Misconduct

Approved By: Faculty Senate, ~~Board of Regents~~

Last Updated: **Draft 4/10/17**

Responsible Faculty Committee: Research Policy Committee

Office Responsible for Administration: Vice President for Research and HSC Vice Chancellor for Research

Legend of highlights: Unchanged text from current policy shown in black; proposed deleted text shown in smaller font ~~black-strikeout~~; proposed changes/additions shown in red, underlined.

Revisions to the Policy Rationale, Policy Statement, and Applicability sections of this document must be approved by the full Faculty Senate ~~and the Board of Regents~~.

POLICY RATIONALE

Integrity, trust, and respect are important elements in an academic research environment. Investigators typically conduct research and explain findings and theories with painstaking diligence, precision, and responsibility. However, research misconduct threatens both to erode the public trust and to cast doubt on the credibility of all researchers. This policy and procedures regarding research misconduct are intended to protect the integrity of the University of New Mexico's (UNM) research enterprise and not hinder the search for truth or interfere with the expansion of knowledge.

POLICY STATEMENT

Because UNM as well as the general public and government are affected by ~~this issue~~ research misconduct, UNM the faculty and administration have created a process to ensure the credibility and objectivity of research activities and deal with research misconduct if it arises. In broad terms this process is designed to:

- Ensure that ethical standards for research at UNM are clearly stated and applied.
- Promptly inquire into allegations of misconduct and, where appropriate, initiate formal investigations and advise sponsors of action taken.
- Ensure that each investigation is properly documented to support findings and carefully conducted to protect any person whose reputation may be placed at risk during the process.
- Respect the principles of academic freedom.

The policy and procedures regarding research misconduct are intended to protect the integrity of UNM's research enterprise and not hinder the search for truth or interfere with the expansion of knowledge.

This policy applies to all individuals who may be involved with a research project, including, but not limited to, faculty, graduate/undergraduate students, staff, employees, contractors, visiting scholars, and any other member of UNM's academic community.

General Principles

3.1. Research misconduct cannot be tolerated and will be firmly dealt with when found to exist.

3.2. For purposes of resolving allegations of research misconduct, the process established by this Policy shall apply to allegations of fabrication, falsification or plagiarism. All other allegations of research misconduct shall be resolved utilizing other applicable UNM policies and procedures.

~~3.3. Charges of research misconduct shall be promptly reviewed and a copy of this policy shall be made available to the complainant. Allegations must be made in writing, and signed and dated by the complainant. If health or safety is involved, prompt remedial action shall be taken.~~

3.4 3. Every effort shall be made to protect the rights and the reputations of everyone involved, including the individual who in good faith alleges perceived misconduct as well as the alleged violator(s). A good faith allegation is made with the honest belief that research misconduct may have occurred. Persons making a good faith allegation shall be protected against retaliation. However, persons making allegations in bad faith will be subject to disciplinary action, up to and including termination or expulsion. An allegation is made in bad faith if the complainant knows that it is false or makes the allegation with reckless disregard for or willful ignorance of facts that would disprove it.

3.5 4. All members of the UNM community are expected to cooperate with committees conducting inquiries or investigations.

3.6 5. Confidentiality. Care will be exercised at all times to ensure confidentiality to the maximum extent possible and to protect the privacy of persons involved in the research under inquiry or investigation. The privacy of those who report misconduct in good faith will also be protected to the maximum extent possible. Files involved in an inquiry or investigation shall be kept secure and applicable state and federal law shall be followed regarding confidentiality of personnel records.

3.7 6. Conflict of Interest. If the Provost, [the Chancellor](#), Vice Provost [President](#) for Research or Vice [Chancellor for Research](#) ~~President for Health Sciences~~, as appropriate, has any actual or potential conflict of interest, the persons shall recuse themselves from the case. The President of UNM shall appoint designates to act instead.

When a case continues to the Inquiry and Investigation stages (Sections [2. 5-3](#) and [3. 6-3](#)), if the President of the Faculty Senate has any actual or potential conflict of interest, the person shall recuse him/herself from the case and the Senate President-Elect shall appoint a designate to act instead.

If any member of the Faculty Senate Operations Committee or the Chair of the Research Policy Committee has any actual or potential conflict of interest, the persons shall recuse themselves

from the case. The Faculty Senate President, or designate as appropriate, shall appoint faculty members to act instead.

7. UNM will respond to each research misconduct allegation in a thorough, competent, objective, and fair manner.

8. UNM will ensure its deans, directors, chairs, and graduate advisors are reminded annually of the UNM's policies and procedures on Research Misconduct, including this Policy. UNM will also inform all faculty, students, and staff of:

(1) the need and importance of research integrity; and

(2) the importance of compliance with applicable policies and procedures.

APPLICABILITY

All academic and research UNM units, including the Health Sciences Center and Branch Campuses.

Revisions to the remaining sections of this document may be amended with the approval of the Faculty Senate Research Policy Committee, Policy Committee, and Operations Committee and in accordance with applicable federal guidelines listed in Section 5.7 herein.

DEFINITIONS

Complainant means a person who makes an allegation of research misconduct. There can be more than one complainant in any inquiry or investigation.

Deciding Official will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions. The Provost is the deciding official for cases where the respondent is not a HSC employee. The Chancellor for Health Sciences is the deciding official for cases where the respondent is a HSC employee.

Conflict of Interest. All officials or officially appointed participants in an investigation, appeal, or decision must be able to participate in a completely disinterested frame of mind. A conflict of interest exists if an individual who would participate as an institutional representative or appointee in an investigatory process, an appellate process, or a decision-making process also has a relationship with a complainant or respondent that could be seen as a source of bias. Potential relationships and/or circumstances that could create a conflict of interest include:

- Being or having been in a teacher-learner, mentor-mentee, or similar relationship with either complainant or respondent;
- Working or having worked in the research labs of either the complainant or the respondent;
- Being a current co-investigator with either the complainant or the respondent on any research project or grant;

- Being a current co-author with either the complainant or the respondent on any publication or on any manuscripts that may be awaiting publication;
- Being involved in any unrelated E40 Research Misconduct process or investigation;
- Having any unresolved personal, professional, or financial conflicts with either the complainant or the respondent;
- Any other circumstance that could interfere with an individual's ability to participate with objectivity and without bias.

Fabrication is making up data or results and recording or reporting them.

Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

NSF means the National Science Foundation. The NSF has adopted rules establishing standards for institutional responses to allegations of research misconduct.

OIG means the Office of the Inspector General, an office within a U.S. federal agency (other than PHS) that is charged with oversight and implementation of federal agency's policies and procedure on research misconduct.

ORI means the Office of Research Integrity, an office within the U.S. Department of Health and Human Services that is responsible for overseeing the implementation of PHS policies and procedures on research misconduct.

PHS means the Public Health Service, a component of the U.S. Department of Health and Human Services. The PHS has adopted rules establishing standards for institutional responses to allegations of research misconduct.

Plagiarism is the appropriation of another person's ideas, processes, results or words without giving appropriate credit.

Recklessly means that a person acts in such a manner that the individual consciously disregards a substantial and unjustifiable risk or grossly deviates from the standard of conduct that a reasonable individual would observe.

Research Integrity Applicability. This policy is intended to carry out UNM's responsibilities under the PHS Policies on Research Misconduct, 42 CFR Part 93, and other applicable regulations governing research misconduct. It applies to allegations of research misconduct (as defined below), or in the reporting of research results involving:

- any individual who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with UNM; including, but not limited to, faculty, graduate/undergraduate students, staff, employees, contractors, visiting scholars, and any other member of UNM's academic community; and
- in case of research subject to PHS regulations and policies, one or more of the following also applies:

(1) PHS supported or non-PHS supported biomedical or behavioral research, or research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information; (2) applications or proposals for PHS-supported or non-PHS-supported biomedical or behavioral research; or research training or activities related to that research or research training; or (3) plagiarism or research records produced in the course of research, research training or activities related to that research or research training.

This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal resulted in a grant, contract, cooperative agreement, or any other form of support.

These policies and procedures do not apply to authorship or collaboration disputes and apply only to allegations of research misconduct that occurred within six years of the date on which UNM or HHS received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR 93.105(b) and other applicable regulations governing research misconduct.

Research misconduct is defined as fabrication, falsification or plagiarism in proposing, conducting, reporting or reviewing sponsored or unsponsored research. The misconduct must have been committed intentionally, knowingly or recklessly. Research misconduct is further defined to include gross carelessness in conducting research amounting to wanton disregard of truth or objectivity, or failure to comply or at least attempt to comply with material and relevant aspects of valid statutory or regulatory requirements governing the research in question. Research misconduct is more than a simple instance of an error in judgment, a misinterpretation of experimental results, an oversight in attribution, a disagreement with recognized authorities, a failure in either inductive or deductive reasoning, an error in planning or carrying out experiments, or a calculation mistake.

Research records are defined as research data, research notebooks, and information needed to interpret such data. It does not include general email or correspondence or other non-research related data or documents.

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

WHO SHOULD READ THIS POLICY

- Faculty, staff, students, contractors, visiting scholars, and any other member of UNM's academic community involved in the conduct or research or the reporting of research results.
- Members of the Faculty Senate and the Research Policy Committee
- Academic deans or other executives, department chairs, directors, and managers
- Administrative staff responsible for sponsored research management.
- Any person who brings forth any allegation of research misconduct.

- [Any person against whom an allegation of research misconduct is directed or the person who is the subject of a research misconduct inquiry or investigation.](#)

RELATED DOCUMENTS

[UNM Regents' Policy Manual](#)

[Policy 5.10 "Conflicts of Interest in Research"](#)

[Policy 5.13 "Research Fraud"](#)

[Policy 5.14 "Human Beings as Subjects in Research"](#)

[Policy 5.15 "Use of Animals in Education and Research"](#)

[Faculty Handbook](#)

[E90 "Human Beings as Subjects in Research"](#)

[E100 "Policy Concerning Use of Animals"](#)

[E110 "Conflicts of Interest in Research"](#)

CONTACTS

[Direct any questions about this policy to Office of the Vice President for Research or the HSC Office of Research.](#)

PROCEDURES

[All applicable persons will report observed, suspected, or apparent research misconduct in accordance with this Policy. Allegations may be made in writing or orally, and in either case may be anonymous, and in all cases; must be sufficiently credible and specific. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the Vice President for Research, Vice Chancellor for Research, or the appropriate HSC Research Integrity Office \(RIO\) to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. A copy of this policy shall be made available to the complainant.](#)

4.1. Preliminary Assessment of Allegations

4.1.1.1. Any initial report of alleged research misconduct shall be treated in a confidential manner and brought to the attention of the faculty member or other person (e.g., chairperson, supervisor, director, principal investigator) responsible for the researcher(s) whose actions are in question, or to the dean of the researcher's college, or to the Vice [President](#) Provost for Research (for allegations concerning a main campus researcher) or Vice [Chancellor for Research](#) President for Health Sciences (for allegations concerning a HSC researcher). The person receiving the initial [allegation](#) report shall, in turn, make an immediate confidential report of the allegations to the Vice [President](#) Provost for Research or Vice [Chancellor for Research](#) President for Health Sciences, as appropriate.

4.2.1.2. An initial report of [alleged](#) research misconduct might arise as part of an administrative review. Such an [allegation](#) report will be acted upon in accordance with this Policy. The

allegation report should be brought confidentially to the Vice President Provost for Research or Vice Chancellor for Research President for Health Sciences, as appropriate.

4.3 1.3 Upon receiving an allegation of receipt of an initial report of alleged research misconduct, the Vice Provost President for Research or the Vice Chancellor for Research President for Health Sciences, or designee, shall conduct a preliminary assessment within seven (7) working days. The purpose of the preliminary assessment is to determine whether the allegation:

(1) is sufficiently credible and specific so that potential evidence of research misconduct may be identified, whether there is sufficient evidence to warrant an inquiry.

(2) falls within the definition of research misconduct and

(3) is within the jurisdictional criteria of this Policy. An inquiry must be conducted if these criteria are met. if both conditions are met the inquiry process shall be initiated.

If the allegation is vague, an effort should be made to obtain more information before deciding whether there is sufficient evidence to warrant an inquiry. If the preliminary assessment finds insufficient information to allow specific follow-up or the allegation falls outside the definition of research misconduct, the matter will not proceed to an inquiry, and the Vice Provost for Research or Vice President for Health Sciences shall so inform the respondent and complainant in writing. The allegation may be referred for review under another University policy, as appropriate.

In conducting the preliminary assessment, the complainant, respondent, or other witnesses need not be interviewed and data need not be gathered beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

5. 2. Inquiry

5.1 2.1 Purpose and Initiation

If the preliminary assessment reveals that the allegation falls within the definition of research misconduct and there is sufficient information to allow specific follow-up, the inquiry process shall be initiated by the Vice President Provost for Research or Vice Chancellor for Research President for Health Sciences, as appropriate. The initiating official will clearly identify the original allegation and any related issues that should be evaluated in the inquiry. The purpose of the inquiry is to make a preliminary evaluation of the available evidence to determine whether there is sufficient credible evidence of possible research misconduct to warrant conducting an investigation. The purpose of the inquiry is not to reach a final conclusion about whether misconduct occurred. The findings of the inquiry shall be set forth in an inquiry report.

2.2 Securing Research Records

Prompt securing of the research records is in the best interest of both the respondent and UNM. Either before or when the institution notifies the respondent of the allegation, inquiry, or investigation, After determining that an inquiry will occur, the Vice Provost President for Research or the Vice Chancellor for Research President for Health Sciences, as appropriate, will direct the process

whereby all original research records (or copies if originals cannot be located) and materials which may be relevant to the allegation are immediately secured. Prompt securing of records is in the best interests of both the respondent and UNM. take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. ~~Immediately~~ Upon ensuring that the research records are secure, the respondent shall be notified that an inquiry is being initiated and the charges and the procedures to be followed. An inventory of the secured records shall be provided him/her as soon as reasonable and practicable. ~~As soon as practicable,~~ a copy of each sequestered record will be provided to the respondent, or to the individual from whom the record is taken if not the respondent, if requested. The respondent will be provided with copies of, or supervised access to, the research records, if requested. The steps required to obtain custody, inventory, and sequester any additional research records and evidence will be followed throughout the inquiry process in the course of securing records. UNM will take reasonable measures to minimize the impact of record collection on the ongoing research, so long as such measures do not conflict with UNM's obligations to sequester. In addition, if research records are located in laboratories or other facilities where chemical, biological, and hazards exist, UNM will take steps to ensure that the collection of such records does not jeopardize the health and safety of any individuals.

2.3 Inquiry Committee

The inquiry shall be carried out by a committee of three persons appointed by the Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate, in consultation with the President of the Faculty Senate, or his/her designate. At least two Inquiry Committee members shall be tenured faculty. One of the tenured faculty members shall chair the Committee. Committee members should be selected on the basis of relevant research background and experience. Faculty members from other universities may be named to the Inquiry Committee if a sufficient number of qualified UNM faculty members are not available. Members of the Committee shall have no actual or potential conflicts of interest in the case, shall be unbiased, and shall, together, possess sufficient expertise to enable the committee to conduct the inquiry.

The respondent and the complainant shall be notified of the proposed Committee membership and may object in writing to any of the proposed appointees on the grounds that the person, or the Committee as a whole, does not meet the criteria stated above. The Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate, in consultation with the President of the Faculty Senate, or his/her designate, will consider the objection and if it has merit, shall make appropriate substitution(s). In the case of disagreement regarding appointments, the Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate, shall decide the challenge. That decision shall be final.

If the Committee so requests, the Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate, shall designate an official to assist the Committee in conducting the inquiry. The Committee shall receive a written charge from the

Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate, defining the subject matter of its inquiry prior to beginning its work.

2.4 Inquiry Process

The respondent and complainant shall be given an opportunity to interview with the Inquiry Committee. The committee may interview others and examine relevant research records, as necessary, to determine whether there is sufficient credible evidence of possible research misconduct to warrant conducting an investigation. University legal counsel shall be available to the committee for consultation.

The length of the inquiry shall not exceed sixty (60) calendar days unless prior written approval for a longer period is obtained from the Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~ as appropriate. If the period is extended, the record of the inquiry shall include documentation of the reasons for exceeding the sixty-day period.

2.5 Inquiry Report

The Inquiry Committee shall prepare a report that includes:

- (1) the names and titles of the committee members, and experts consulted, if any;
- (2) the allegations;
- (3) the PHS support, if any;
- (4) a summary of the inquiry process;
- (5) a summary of the evidence reviewed;
- (6) a summary of any interviews;
- (7) the conclusions of the inquiry as to whether an investigation is recommended; and
- (8) whether any other action should be taken if an investigation is not recommended.

The respondent shall be given fourteen (14) calendar days to review the report and to add his or her comments, which will become part of the final inquiry report and record. Based upon the respondent's comments, the Inquiry Committee may revise its report.

2.6 Inquiry Determination

The Inquiry Committee final report will be sent to the Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate, who will determine whether the results of the inquiry provide sufficient evidence of possible research misconduct to warrant conducting an investigation or whether the matter will not be pursued further. The respondent and complainant shall be notified in writing of the decision.

6. 3. Investigation

6.1 3.1 Purpose and Initiation

The purpose of the investigation is to explore the allegations in detail, examine the evidence in depth, and determine specifically whether research misconduct has been committed, by whom, and to what extent. If instances of possible misconduct involving a different respondent are

uncovered, the matter should be sent to the Vice [President](#) Provost for Research or Vice [Chancellor for Research](#) President for Health Sciences, as appropriate, to initiate a preliminary assessment.

The Investigation Committee will be appointed and the process initiated within thirty (30) [calendar](#) days after the conclusion of the inquiry. If required by sponsoring agency regulations, the office of the Vice [President](#) Provost for Research or Vice [Chancellor for Research](#) President for Health Sciences, as appropriate, shall notify the agency of its decision to commence an investigation on or before the date the investigation begins.

3.2 Securing Research Records

Any additional pertinent research records that were not previously sequestered during the inquiry will be immediately sequestered when the decision is made to conduct an investigation. The Vice [President](#) Provost for Research or Vice [Chancellor for Research](#) President for Health Sciences, as appropriate, will direct this process. This sequestration should occur before or at the time the respondent is notified that an investigation will begin. The need for additional sequestration of records may occur for any number of reasons, including a decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. As soon as practicable, a copy of each sequestered record will be provided to the respondent, or to the individual from whom the record is taken if not the respondent, if requested.

3.3 Investigation Committee

The investigation shall be conducted by a committee of five persons appointed by the Faculty Senate Operations Committee, in consultation with the Chair of the Research Policy Committee or his/her designate. Committee members should be selected on the basis of relevant research background and experience. All persons appointed from UNM shall be tenured faculty. Tenured faculty members from other universities or senior researchers from research institutions may be named to the Investigation Committee if a sufficient number of qualified UNM faculty members are not available. Members of the committee shall have no actual or potential conflicts of interest in the case, shall be unbiased, and shall, together, possess sufficient expertise to enable the committee to conduct the investigation. No more than two members of the Inquiry Committee may be appointed to serve on the Investigation Committee.

The respondent and the complainant shall be notified of the proposed committee membership and may object in writing to any of the proposed appointees on the grounds that the person, or the committee as a whole, does not meet the criteria stated above. The Faculty Senate Operations Committee will consider the objection and if it has merit, shall make appropriate substitution(s), in consultation with the Chair of the Research Policy Committee or his/her designate. In the case of disagreement regarding appointments made by the Faculty Senate Operations Committee, the Vice [President](#) Provost for Research or Vice [Chancellor for Research](#) President for Health Sciences, as appropriate, shall decide the challenge. That decision shall be final.

If the committee so requests, the Vice [President](#) Provost for Research or Vice [Chancellor for Research](#) President for Health Sciences shall designate an official to assist the committee in

conducting the investigation. The committee shall receive a written charge from the Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate, defining the subject matter of its investigation prior to beginning its work.

6.4 3.4 Investigation Process

~~The investigation will normally involve examination of all relevant documentation.~~ The Investigation Committee shall make diligent efforts to interview the complainant, the respondent, and other individuals who might have information regarding aspects of the allegations. The interviews will be recorded on a recording device provided by the office of the Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate. A verbatim written record shall be made of all interviews. A transcript of his/her interview shall be provided to each witness for review and correction of errors, which shall be returned and become part of the investigatory file. University legal counsel shall be available to the committee for consultation.

3.5 Investigation Report

The Investigation Committee shall prepare a draft of the final report that includes:

- (1) the names and titles of the committee members, and experts consulted, if any;
- (2) the allegations;
- (3) the PHS support, if any;
- (4) a summary of the inquiry process;
- (5) a summary of the evidence reviewed;
- (6) a summary of any interviews;
- (7) findings and basis for each finding;
- (8) conclusion(s) as to whether research misconduct occurred; and
- (9) recommendations for institutional action.

Copies of all significant documentary evidence that is referenced in the report should be appended to the report.

A finding of research misconduct requires that four conditions be met:

- (1) the conduct at issue falls within this policy's definition of research misconduct;
- (2) the misconduct ~~be~~ was committed intentionally, or knowingly, or recklessly;
- (3) there ~~be~~ is a significant departure from accepted practices of the relevant research community; and
- (4) the allegation has been ~~be~~ proven by a preponderance of the evidence. This means that the evidence shows that it is more likely than not that the respondent committed research misconduct.

The respondent shall be given ~~will be provided with~~ a copy of the draft investigation report for review and comment, and concurrently, a copy of, or supervised access to the significant documentary evidence on which the report is based. The respondent will be allowed thirty (30) ~~fourteen (14)~~ calendar days from the date he/she received the draft report to submit comments. ~~for review and any comments will be attached to the final report.~~ The respondent's comments must be

included and considered in the final report. The complainant may be provided with those portions of the draft investigation report that address the complainant's role and opinions in the investigation, and the complainant will have thirty (30) ~~fourteen (14)~~ calendar days ~~to review~~ and submit any comments to the investigation Committee. The report may be modified, as appropriate, based on the complainant's comments.

If the Investigation Committee puts forward a final report with a finding of research misconduct, the respondent has fourteen (14) calendar days to request ~~elect~~ a hearing before the Provost or Chancellor ~~Vice President for Health Sciences~~, as appropriate. The hearing will allow for argument, rebuttal, cross-examinations and a written record of the proceedings.

~~6.6~~ **3.6 Institutional Review and Determination**

The Investigation Committee final report will be forwarded to the Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate. The Vice President ~~Provost~~ for Research will transmit the report to the Provost who is the UNM deciding official for cases where the respondent is not a Health Sciences Center employee. The Chancellor ~~Vice President for Health Sciences~~ is the deciding official for cases where the respondent is a Health Sciences Center employee. The deciding official will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions.

If the respondent has requested ~~elected~~ a hearing, the deciding official will conduct the hearing following the UNM model hearing procedure, available from the University Counsel's office. The Investigation Committee presents the case consistent with its report. The respondent presents the rebuttal. The respondent may have an advisor present.

The deciding official's decision should be consistent with the definition of research misconduct, UNM's policies, and the evidence reviewed and analyzed by the Investigation Committee. The deciding official may also return the report to the Investigation Committee with a request for further fact-finding or analysis. The deciding official's final determination will be sent to the respondent and complainant. If the deciding official's decision varies from that of the Investigation Committee, the basis for rendering a different decision will be explained in the report to ORI and other agencies as appropriate.

Respondents may appeal the final determination to the UNM President. An appeal is limited to:

- (1) a claim of procedural error; and/or
- (2) a claim that the sanction imposed as a result of a finding of research misconduct is inappropriate.

Except as to PHS and Department of Energy (DOE) funded research, the investigation shall be completed within one hundred eighty (180) calendar days of the first meeting of the Investigation Committee. However, if for PHS or DOE sponsored the research, unless ORI grants an extension has been granted, UNM must submit the following to ORI or DOE OIG, UNM must submit the required documentation to ORI or DOE OIG ~~the investigation shall be completed, with the~~

final investigation report and final determination submitted to ORI, within one hundred twenty (120) calendar days of the first meeting of the Investigation Committee.

The following document are required by PHS:

(1) a copy of the final investigation report with all attachments;

(2) a statement of whether UNM accepts the findings of the investigation report;

(3) a statement of whether UNM found misconduct and, if so, who committed the misconduct; and

(4) a description of any pending or completed administrative actions against the respondent.

Documentation requirements, adjudication timelines, and the associated mandates are sponsor-specific and must be deciphered for each sponsor involved in the research at issue.

7.4. Actions Following Investigation

7.1 4.1 Finding of Research Misconduct

If the final determination is that research misconduct occurred, UNM shall take appropriate action, which may include but is not limited to:

- (1) ~~notifying~~ notification of the sponsoring agency;
- (2) withdrawal or correction of all pending or published abstracts and papers emanating from the research;
- (3) removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, rank reduction or termination of employment in accordance with UNM policies and procedures. In cases involving faculty, implementation must be consistent with the Policy on Academic Freedom and Tenure;
- (4) ~~determining~~ determination of whether law enforcement agencies, professional societies, professional licensing boards, collaborators of the respondent, or other relevant parties should be notified; and
- (5) any other steps deemed appropriate to accomplish justice and preserve the integrity of UNM and the credibility of the sponsor's program.

7.2 4.2 Restoration of Respondent's Reputation

If the final determination is that no research misconduct occurred, efforts shall be undertaken to the extent possible and appropriate to fully protect, restore, or maintain the credibility of the research project, research results, and the reputation of the respondent, the sponsor and others who were involved in the investigation or deleteriously affected thereby. Depending on the circumstances, consideration should be given to notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of research misconduct was previously publicized, expunging all reference to the research misconduct allegation from the respondent's personnel files, or reviewing negative decisions related to tenure or advancement to candidacy that occurred during the

investigation. Any institutional actions to restore the respondent's reputation must first be approved by the Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate.

~~7.3~~ **4.3 Protection of the Complainant and Others**

Regardless of whether UNM determines that research misconduct occurred, reasonable efforts will be undertaken to protect complainants who made allegations of scientific misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. The Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, or designee, will also take appropriate steps during the inquiry and investigation to prevent retaliation against the complainant. If a complainant believes that retaliation was threatened, attempted or occurred, he or she may file a complaint with the UNM Internal Audit Department.

~~7.4~~ **4.4 Allegations Made in Bad Faith**

If relevant, the Vice President ~~Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~ will determine whether the complainant's allegation of research misconduct was made in good faith. If an allegation was made in bad faith, appropriate disciplinary action will be taken in accordance with UNM policies and procedures. If the complainant is not associated with UNM, appropriate organizations or authorities may be notified and administrative or legal action considered.

~~8.~~ **5. Other Considerations**

~~8.1~~ **5.1 Requirements for Reporting to ORI When Funding from PHS Is Involved**

~~8.1.1~~ **5.1.1** The decision to initiate an investigation must be reported in writing to the Director of the ORI, on or before the date the investigation begins. The notification must include at a minimum the name of the person(s) against whom the allegations have been made, the general nature of the allegation, and the PHS application or grant number(s) involved.

~~8.1.2~~ **5.1.2** If UNM plans to terminate an inquiry or investigation without completing all relevant requirements of the PHS regulation, a report of such planned termination shall be made to ORI, including a description of the reasons for the proposed termination.

~~8.1.3~~ **5.1.3** If UNM determines that it will not be able to complete the investigation within one hundred twenty (120) calendar days, a written request for an extension shall be submitted to ORI that explains the delay, reports on the progress to date, estimates the date of completion and describes other necessary steps to be taken. If the request is granted, UNM must file periodic progress reports as requested by ORI.

~~8.1.4~~ **5.1.4** UNM will keep ORI apprised of any developments during the course of an investigation that may affect current or potential Department of Health and Human Services funding for the individual(s) under investigation or that the PHS needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.

~~8.1.5~~ **5.1.5** ORI shall be notified immediately, at any stage of the inquiry or investigation if time during a research misconduct proceeding, if there is any reason to believe that any of the following conditions exist:

(1) Health or safety of the public is a risk, including an immediate need to protect human or animal subjects; ~~there is an immediate health hazard involved;~~

(2) HHS resources or interests are threatened

(3) Research activities should be suspended;

(4) There is a reasonable indication of possible violations of civil or criminal law; ~~(6) criminal violation in which case UNM must inform ORI within 24 hours of obtaining that information.~~

(5) Federal action is required to protect the interests of those involved in the research misconduct proceeding;

(6) The research misconduct proceeding may be made public prematurely and HHS action may be necessary to safeguard evidence and protect the rights of those involved; or

(7) The research community or public should be informed.

~~(2) there is an immediate need to protect federal funds or equipment;~~

~~(3) there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;~~

~~(4) it is probable that the alleged incident is going to be reported publicly;~~

~~(5) the allegation involves a public health sensitive issue (e.g. a clinical trial); or~~

8.2 5.2. Funding Agency Requirements for Reporting When NSF Funding Is Involved

When support from other funding agencies is implicated in research subject to the allegation of potential misconduct, the funding agency policies must be researched and followed.

~~8.2.1~~ The decision to initiate an investigation must be reported immediately in writing to NSF.

~~8.2.2~~ NSF shall be notified at any stage of the inquiry or investigation if any of the following conditions exist:

~~(1) public health or safety is at risk;~~

~~(2) NSF's resources, reputation, or other interests need protecting;~~

~~(3) there is reasonable indication of possible violations of civil or criminal law;~~

~~(4) research activities should be suspended;~~

~~(5) federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected; or~~

~~(6) the scientific community or the public should be informed.~~

~~8.2.3~~ NSF shall be provided with a copy of the final investigation report.

~~8.2.4~~ The inquiry shall be completed within 90 days and the investigation completed within 180 days of its initiation. If completion of an inquiry or investigation will be delayed, NSF shall be notified and may require submission of periodic status reports.

8.3 5.3 Interim Administrative Action

UNM officials will take ~~interim~~ administrative actions, as appropriate, to protect federal funds and ensure ~~insure~~ that the purposes of the federal financial assistance are carried out. UNM officials shall ensure that administrative actions taken by the institution and ORI are enforced and shall take appropriate action to notify other involved parties such as sponsors, law enforcement agencies, professional societies, and licensing boards, of those actions.

8.4 5.4 Termination of UNM Employment

The termination of the respondent's UNM employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the misconduct procedures. If the respondent refuses to participate in the process after termination of employment, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

8.5 5.5 Record Retention

Records of the research misconduct proceeding will be maintained in a secure manner for seven (7) years after completion of any proceeding by UNM involving research misconduct allegation, or the completion of any ORI proceeding involving the allegation of research misconduct, whichever is later, unless custody of the records has been transferred to ORI or ORI has advised that the records no longer need to be retained. When it is determined that an investigation is not warranted, detailed documentation of the inquiry must be retained for at least seven (7) years after termination of the inquiry, so that ORI may assess the reasons why UNM decided not to conduct an investigation.

~~All documentation of an inquiry that does not lead to an investigation shall be maintained in University Counsel Office files for at least three (3) years after the conclusion of the inquiry. All documentation of an investigation shall be maintained in University Counsel Office files for five (5) years after the end of the investigation. Documentation shall be provided to the sponsoring agency and ORI upon request or if required by the agency's regulations. Documentation shall be treated as confidential personnel information to the extent provided for by law.~~

8.6 5.6 Reimbursement

If requested, the UNM Board of Regents in the pursuit of justice and fairness may, in its sole discretion, fully or partially reimburse the respondent and/or the complainant for legal fees in cases of unusual hardship.

8.7 5.7 Federal Regulatory Changes

If PHS, ORI, NSF or any other federal agency amends its requirements on research misconduct, those amendments shall govern where applicable and shall be incorporated into this policy by reference herein. Such changes in federal requirements shall supersede all relevant portions of this Policy.

5.8 Revision

The Faculty Senate is authorized to make minor technical and implementing modifications to the detailed Research Misconduct Policy subject to approval of the President of the University.

HISTORY

Effective:

Research Misconduct Policy (amended) Approved by UNM Board of Regents April 13, 2004
Research Misconduct Policy (amended) Approved by Faculty Senate February 24, 2004
Research Misconduct Policy (amended) Approved by Faculty Senate April 22, 2003
Research Misconduct Policy (amended) Approved by UNM Board of Regents May 10, 2002
Research Misconduct Policy (amended) Approved by Faculty Senate April 23, 2002
Research Fraud Policy Approved by UNM Board of Regents October 10, 1996
Research Fraud Policy Approved by Faculty Senate September 10, 1996

DRAFT HISTORY

[March 16, 2017 – Proposed revised draft approved by the Faculty Senate Policy Committee to go to Operations for approval to send to faculty for review and comment period.](#)

February 27, 2017 – Proposed revised draft per decisions of subgroup, including Dr. Larson and Dr. Hanson (RPC Chair)

February 7, 2017 – Proposed revised draft highlighted to include recent RPC recommendations.

September 9, 2015—Proposed revised draft placed in new policy format for review by Vice Chancellor for Research, Richard Larson and the Faculty Senate Policy Committee

July 1, 2015 Supplemental Policy with proposed changes to E40 prepared by HSC

COMMENTS TO:
handbook@unm.edu

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