

UNION GRADUATE COLLEGE

POLICIES AND PROCEDURES ON RESEARCH MISCONDUCT

December 2, 2011

Union Graduate College provides for an impartial procedure to prevent scientific misconduct and to implement policies established by the Department of Health and Human Services and the Public Health Service. The Executive Committee of Union Graduate College is responsible for reviewing allegations of scientific misconduct and for the execution of the following procedures.

Confidentiality

To the extent allowed by law, Union Graduate College shall maintain the identity of respondents and complainants securely and confidentially, and shall not disclose any identifying information except to: (1) those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and (2) The federal Office of Research Integrity (ORI) as it conducts its review of the research misconduct proceeding and any subsequent proceedings. More specifically, to the extent allowed by law, any information obtained during the research misconduct proceeding that might identify the subjects of research shall be maintained securely and confidentially and shall not be disclosed, except to those who need to know in order to carry out the research misconduct proceeding.

Research Misconduct Proceedings—Criteria, Reports, and Time Limitations

Promptly after receiving an allegation of research misconduct, defined as a disclosure of possible research misconduct through any means of communication, the Executive Committee of the Faculty shall assess the allegation to determine if the allegation: (1) meets the definition of research misconduct in 42 CFR Section 93.103¹ and, (2) is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

If the Executive Committee of the Faculty determines that an inquiry is warranted (i.e., an initial review of the evidence to determine if the criteria for conducting an investigation have been met), the Committee shall conduct and complete the initial inquiry within 60 days of the allegation. This initial inquiry will include preparation of the inquiry report and giving the respondent and complainant a reasonable opportunity to comment on it in writing, within 60 calendar days of its initiation unless the circumstances warrant a longer period. If the inquiry takes longer than 60 days to complete, the report shall include documentation of the reasons for the delay in the inquiry record. The inquiry report shall contain the following information: (1) The name and position of the respondent(s); (2) A description of the allegations

¹ Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. (per 42 CFR Section 93.103)

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

(b) 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.

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

(d) Research misconduct does not include honest error or differences of opinion.

of research misconduct; (3) The PHS (Public Health Service) support involved if any, including, for example, grant numbers, grant applications, contracts, and publications listing PHS support; (4) The basis for recommending that the alleged actions warrant an investigation; and (5) Any comments on the report by the respondent or the complainant. PHS is the Public Health Service and includes the National Institutes of Health, the Food and Drug Administration. For a complete list see

<http://www.usphs.gov/AboutUs/agencies.aspx>

As a summary statement in the report, the Chair of the Executive Committee of the Faculty will make a written determination of whether a formal investigation is warranted. If the research is PHS-supported (if it involves either the PHS supported research, applications for PHS research support, or research records specified in 42 CFR Section 93.102(b)) and the determination is that a formal investigation is warranted, the federal Office of Research Integrity (ORI) will be notified as specified below. In cases where PHS support is not the case, identical procedures will be followed with the reports forwarded to the President of the College. In cases involving the President, the Board Chair shall receive reports instead.

If a formal investigation is warranted, the investigation shall begin within 30 calendar days of that determination. In the case of PHS-supported work, the Executive Committee will also send the inquiry report to the ORI on or before the date on which the investigation begins. The Executive Committee will strive to complete the investigation within 120 calendar days of the date on which it began, including conducting the investigation, preparing a draft report of findings providing the draft report to the complainant and the respondent for comment, and sending the final report to ORI. If it becomes apparent that the Committee cannot complete the investigation within that period, it shall promptly request an extension in writing from ORI or the President in cases where PHS supported research is not at question.

In conducting all investigations, the Executive Committee of the Faculty shall: (1) Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all records and evidence relevant to reaching a decision on the merits of the allegations; (2) Interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of investigation; (3) Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion; and (4) In the case of PHS-supported research, otherwise comply with the requirements for conducting an investigation in 42 CFR Section 93.310 "The Institutional Investigation" found at:

http://edocket.access.gpo.gov/cfr_2010/octqtr/pdf/42cfr93.310.pdf

The Executive Committee of the Faculty shall prepare the draft and final institutional investigation reports in writing and provide the draft report for comment as provided elsewhere in these policies and procedures and in the case of PHS-supported research 42 CFR Section 93.312 "Opportunity to comment on the investigation report" found at:

<http://cfr.vlex.com/vid/93-312-opportunity-investigation-report-19795793>

The final investigation report shall:

- (1) Describe the nature of the allegations of research misconduct;
- (2) Describe and document the PHS support if any, including, for example any grant numbers, grant applications, contracts, and publications listing PHS support;
- (3) Describe the specific allegations of research misconduct considered in the investigation;

(4) Include this policy (the UGC Policies and Procedures on Research Misconduct);

(5) Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody, but not reviewed. The report should also describe any relevant records and evidence not taken into custody and explain why.

(6) Provide a finding as to whether research misconduct did or did not occur for each separate allegation of research misconduct identified during the investigation, and if misconduct was found, (i) identify it as falsification, fabrication, or plagiarism and whether it was intentional, knowing, or in reckless disregard, (ii) summarize the facts and the analysis supporting the conclusion and consider the merits of any reasonable explanation by the respondent and any evidence that rebuts the respondent's explanations, (iii) identify the specific PHS support if any; (iv) identify any publications that need correction or retraction; (v) identify the person(s) responsible for the misconduct, and (vi) list any current support or known applications or proposals for support that the respondent(s) has pending all (Federal and non-Federal) agencies; and

(7) Include (attach) and consider any comments made by the respondent and complainant on the draft investigation report.

Union Graduate College shall maintain and provide to ORI upon request all relevant research records and records of our research misconduct proceeding, including results of all interviews and the transcripts or recordings of such interviews.

Ensuring a Fair Research Misconduct Proceeding

Union Graduate College shall take all reasonable steps to ensure an impartial and unbiased research misconduct proceeding to the maximum extent practicable. Members of the Executive Committee of the Faculty shall be screened for any unresolved personal, professional, or financial conflicts of interest with the respondent, complainant, potential witnesses, or others involved in the matter. Any such conflict which a reasonable person would consider to demonstrate potential bias shall disqualify the individual from participation.

Notice to Respondent

During the research misconduct proceeding, Union Graduate College shall provide the following notifications to all identified respondents:

- Initiation of Inquiry. Prior to or at the beginning of the inquiry, Union Graduate College shall provide the respondent(s) written notification of the inquiry and contemporaneously sequester all research records and other evidence needed to conduct the research misconduct proceeding. If the inquiry subsequently identifies additional respondents, they shall be promptly notified in writing.
- Comment on Inquiry Report. Union Graduate College shall provide the respondent(s) an opportunity to comment on the inquiry report in a timely fashion so that any comments can be attached to the report.
- Results of the Inquiry. Union Graduate College shall notify the respondent(s) of the results of the inquiry and attach to the notification copies of the inquiry report and these institutional policies and procedures for the handling of research misconduct allegations.
- Initiation of Investigation. Within a reasonable time after our determination that an investigation is warranted, but not later than 30 calendar days after that determination, Union Graduate College shall notify the respondent(s) in writing of the allegations to be investigated. Respondent(s) will be given

written notice of any new allegations within a reasonable time after determining to pursue allegations not addressed in the inquiry or in the initial notice of the investigation.

- Scheduling of Interview. Union Graduate College will notify the respondent sufficiently in advance of the scheduling of his/her interview in the investigation so that the respondent may prepare for the interview and arrange for the attendance of legal counsel, if the respondent wishes.
- Comment on Draft Investigation Report. Union Graduate College shall give the respondent(s) a copy of the draft investigation report, and concurrently, a copy of, or supervised access to, the evidence on which the report is based and notify the respondent(s) that any comments must be submitted within 30 days of the date on which he/she received the draft report. These comments will be included and considered in the final investigation report.

Notifying ORI of the Decision to Open an Investigation and of Institutional Findings and Actions Following the Investigation.

In the case of PHS-supported research, on or before the date on which a formal investigation begins Union Graduate College shall provide ORI with the written finding by the Chair of the Faculty Executive Committee and a copy of the initial inquiry report containing the information required by 42 CFR Section 93.309(a).

Upon request from ORI, Union Graduate College shall promptly provide: (1) a copy of Union Graduate College's institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges for the investigation to consider.

After the investigation, Union Graduate College will provide to ORI: (1) A copy of the investigation report, all attachments, and any appeals; (2) A statement of whether the institution found research misconduct and, if so, who committed it; (3) A statement of whether the institution accepts the findings in the investigation report; and (4) A description of any pending or completed administrative actions against the respondent.

In the case of non-PHS-supported research, these documents shall be provided to the President of Union Graduate College.

Maintenance and Custody of Research Records and Evidence

Union Graduate College shall take the following specific steps to obtain, secure, and maintain the research records and evidence pertinent to the research misconduct proceeding.

(1) Either before or when the respondent is notified of an allegation of misconduct, Union Graduate College shall promptly take all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding, inventory those materials, and sequester them in a secure manner.

(2) Where appropriate, Union Graduate College will give the respondent and their counsel copies of, or reasonable, supervised access to the records.

(3) Union Graduate College will undertake all reasonable and practical efforts to take custody of additional research records and evidence discovered during the course of the research misconduct proceeding, including at the inquiry and investigation stages, or if new allegations arise.

(4) Union Graduate College shall maintain all records of the research misconduct proceeding, as defined in 42 CFR Section 93.317(a), for 7 years after completion of the proceeding, or any ORI or HHS proceeding under Subparts D and E of 42 CFR Part 93, whichever is later, except in the case where custody of the records and evidence has been transferred to HHS, or if ORI has advised Union Graduate College that there is no longer any need to retain the records.

Interim Protective Actions

At any time during a research misconduct proceeding, Union Graduate College shall take appropriate interim actions to protect public health, federal funds and equipment, and the integrity of the PHS supported research process. The necessary actions will vary according to the circumstances of each case, but examples of actions that may be necessary include delaying the publication of research results, providing for closer supervision of one or more researchers, requiring approvals for actions relating to the research that did not previously require approval, auditing pertinent records, or taking steps to contact other institutions that may be affected by an allegation of research misconduct.

Notifying ORI of Special Circumstances that may Require Protective Actions

At any time during a research misconduct proceeding, Union Graduate College shall notify ORI immediately if there is a reason to believe that any of the following conditions exist:

- (1) Health or safety of the public is at risk, including an immediate need to protect human or animal subjects.
- (2) HHS resources or interests are threatened.
- (3) Research activities should be suspended.
- (4) There is a reasonable indication of violations of civil or criminal law.
- (5) Federal action is required to protect the interests of those involved in the research misconduct proceeding.
- (6) It is believed the research misconduct proceeding may be made public prematurely, so that HHS may take appropriate steps to safeguard evidence and protect the rights of those involved.
- (7) It is believed the research community or public should be informed.

Institutional Actions in Response to Final Findings of Research Misconduct

Union Graduate College will cooperate with and assist ORI and HHS, as needed, to carry out any administrative actions HHS may impose as a result of a final finding of research misconduct by HHS.

Restoring Reputations

Respondents. Union Graduate College shall undertake all reasonable, practical, and appropriate efforts to protect and restore the reputation of any person alleged to have engaged in research misconduct, but against whom no finding of research misconduct was made, if that person or his/her legal counsel or other authorized representative requests that we do so.

Complainants, Witnesses, and Committee Members. Union Graduate College shall undertake all reasonable and practical efforts to protect and restore the position and reputation of any complainant, witness, or committee member and to counter potential or actual retaliation against those complainants,

witnesses and committee members. Such protections include but are not limited to the workplace standards related to whistleblower and retaliation protections found at:

<http://www.dol.gov/compliance/guide/whistle.htm>

Cooperation with ORI.

Union Graduate College shall cooperate fully and on a continuing basis with ORI during its oversight reviews of this institution and its research misconduct proceedings and during the process under which the respondent may contest ORI findings of research misconduct and proposed HHS administrative actions. This includes providing, as necessary to develop a complete record of relevant evidence, all witnesses, research records, and other evidence under Union Graduate College's control or custody, or in the possession of, or accessible to, all persons that are subject to Union Graduate College's authority.

Reporting to ORI. Union Graduate College will report to ORI any proposed settlements, admissions of research misconduct, or institutional findings of misconduct that arise at any stage of a misconduct proceeding, including the allegation and inquiry stages.

This document is adapted from the sample provided by the ORI which can be found at:

<http://ori.hhs.gov/policies/Requirements-Reg-6-05.shtml>