

**RICE UNIVERSITY
Office of the Provost**

Procedures for Conducting a Research Misconduct Investigation

- I.** Under Rice Policy No. 324 and applicable federal regulations governing federally sponsored research, if the Provost concludes that the allegations and evidence outlined in the Inquiry report have sufficient substance, an Investigation will follow. Prior to the initiation of any potential disciplinary process under Rice policies, the Provost will first appoint and convene an investigatory panel of at least three members (the "Panel"). Prior to appointing the Panel, the Provost will confer with the Conveyor of the Appeals and Grievance Committee of the Faculty Senate about potential Panel members. The Panel may consist entirely of Rice faculty or the Provost may appoint one or more individuals from outside the University who may bring particular expertise to the Investigation. A Rice faculty member shall chair the Panel.
- II. *Definitions.***
- a. *Research misconduct* means fabrication, falsification or plagiarism in proposing, performing, or reviewing research, or in reporting research results. *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. *Plagiarism* is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- b. A finding of research misconduct requires that there be a significant departure from accepted practices of the relevant research community. Research misconduct may also include a failure to comply with the federal requirements for protecting researchers, human and animal subjects and the public. Any action in connection with proposing, conducting, reviewing, or reporting research taken with the intent to defraud is also a form of research misconduct. Research misconduct does not include honest error or differences in opinion.
- III. *Avoidance of Identifiable Bias and Conflict of Interest.*** When the Provost has determined the membership of the Panel, he/she shall provide notice to the individual(s) responding to the allegations of misconduct (the "Respondent(s)") as well as to the Research Integrity Officer (the Vice Provost for Research or his/her designee). The Respondent(s) and the Research Integrity Officer shall then have seven calendar days in which to object to any proposed members of the Panel on the grounds that they may have an identifiable bias or unresolved personal, professional, or financial conflict of interest with those involved in the Inquiry or Investigation. Any objections shall be based on objective, relevant and demonstrable evidence. The Provost will review the objections and, if, pursuant to section IV.A. of Policy 324, there is actual bias or conflict of interest or an appearance of bias or conflict of interest, the Provost must replace one or more proposed Panel members so as to eliminate even the appearance of bias or conflict of interest.. If the Provost so substitutes one or more of the Panel members, the Respondent(s) and Research Integrity Officer shall be notified of the substitution and will have three calendar days to raise any objections of identifiable bias or conflict of interest on the part of the newly-added members. The Provost's decision on the membership of the Panel shall be final.

IV. *Function of the Panel.* The Panel shall develop a factual record relating to the allegations of research misconduct and shall examine that record in order to make findings and recommendations to the Provost whether research misconduct occurred and, if so, by whom and the level of seriousness, including whether any publications may need correction or retraction. The Panel's findings and recommendations may include a recommendation to the Provost for other appropriate actions, including disciplinary or administrative actions.

V. *Evidentiary Standards.*

- a. The Panel's findings shall be based on the preponderance of the evidence, which means that the weight of the evidence on a particular matter leads to the conclusion that the matter in question is more likely true than not. In order for the Panel to find that research misconduct occurred, the Panel must conclude that the preponderance of the evidence establishes proof of misconduct.
- b. The destruction, absence of or failure of a Respondent to provide research records which adequately demonstrate the questioned research is evidence of research misconduct when the University establishes by a preponderance of the evidence that a Respondent intentionally, knowingly or recklessly (i) destroyed research records that he or she had possessed or controlled, (ii) had the opportunity to maintain the records but did not do so, or (iii) maintained the records and failed to produce them in a timely manner, and the Respondent's conduct constitutes a significant departure from accepted practices of the relevant research community.
- c. A Respondent has the burden of producing and demonstrating, by a preponderance of the evidence, any and all affirmative defenses raised. A Respondent also has the burden of producing and demonstrating, by a preponderance of the evidence, any mitigating factors that are relevant to a decision to impose administrative or disciplinary actions following a research misconduct proceeding.
- d. The Panel is not bound by formal rules of evidence, and may admit and consider evidence, including hearsay, for whatever probative value the Panel believes the evidence merits. The Panel should take into account the credibility of Respondent(s), witnesses and other evidence in reaching its determinations. The Panel, in reaching its findings and recommendations, shall give due consideration to credible, material and relevant evidence of honest error or difference of academic opinion presented by a Respondent.

VI. *Conducting the Investigation.*

- a. After being appointed, the Panel shall meet in executive session to review the charges of research misconduct, the Inquiry report and its recommendations, the decision of the Provost and discuss how best to proceed. The Panel may confer with the Research Integrity Officer and the Office of General Counsel for guidance and advice.
- b. The Panel shall take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practicable, including participation of persons with appropriate scientific or other expertise who do not have unresolved personal, professional, or financial conflicts of interest with those materially involved with the Inquiry or Investigation.

- c. The Research Integrity Officer shall provide the Panel with the evidence that was compiled and reviewed during the Inquiry. The Research Integrity Officer shall attend each meeting of the Panel and shall provide logistic and staff support for the Panel as it conducts the Investigation and shall assist the Panel in any way the Panel deems necessary or appropriate. The Panel will discuss with the Research Integrity Officer the means by which appropriate custody and control of the necessary records is obtained and preserved so that needed records are properly secured and sequestered while also being available to the Panel for its work. Should the Panel wish to consult with legal counsel during its work, the Office of General Counsel will provide an attorney for the Panel.
- d. The Panel shall use its best efforts to interview each complainant, Respondent and any other available person the Panel deems to have material information relating to any relevant aspects of the Investigation, including witnesses identified by a Respondent or the Research Integrity Officer that the Panel believes may have such material information. Final decision on which witnesses to interview shall rest with the Panel. The Panel, either collectively or by individual members, may interview any person singly or with others in any format it believes that will aid it in compiling a full and fair record and in reaching its determinations, at its sole discretion. The Panel shall have the ability to recall witnesses if it believes it useful in concluding the Investigation. Should a complainant, Respondent or other person be accompanied by legal counsel during an interview or any other part of the investigatory proceedings, the counsel for the individual shall only be present to provide advice to his or her client and shall not participate in the interview or proceedings. Should the Panel permit an individual to be accompanied by legal counsel, the Panel will also have its University legal counsel present to advise the Panel.
- e. When the Panel conducts any interviews, it shall have each such interview recorded and transcribed, and it shall provide each interviewee with a reasonable opportunity to review and correct the transcript of his or her interview.
- f. The Panel should use diligent efforts to ensure that the Investigation is thorough and sufficiently documented and includes examination of all research records and other evidence relevant to making findings and recommendations on the merits of the allegations. The Panel should also pursue diligently all significant issues and leads discovered during the Investigation that the Panel determines are relevant to the Investigation, including any evidence of additional instances of possible research misconduct, and continue the Investigation to completion.
- g. The investigatory process is intended to be confidential, so the Panel should take reasonable and appropriate steps to protect the confidentiality of its proceedings, the participants and the evidence gathered, but such steps shall not impair the ability of the Panel to compile whatever information and evidence the Panel believes necessary to fully and fairly reach its findings and recommendations.

VII. *Investigation Report.*

- a. The Panel shall prepare a draft report of its findings and recommendations after it concludes the Investigation, in the format described in VII (d) below. After the Panel completes the draft report, it shall provide a copy to the Research Integrity Officer and

- the Respondent(s) for review and comment. The Panel, at its discretion, shall also either provide the Respondent(s) with a copy of the evidence upon which the draft report is based or an opportunity to review the evidence under supervised access. The Panel shall allow the Respondent(s) no more than 30 calendar days within which to submit comments to the Panel on the draft report.
- b. The Panel may, at its discretion, also provide a copy of the draft report or relevant portions of the draft report to all or some of the complainants for review and comment. The Panel shall allow any such complainants no more than 30 calendar days within which to submit comments to the Panel on the draft report or relevant portions of it.
 - c. The Panel should review and consider any comments it receives to the draft report when finalizing the report, and attach the comments received to the final Investigation report.
 - d. The Investigation report must be in writing and include the following:
 - i. Allegations: Description of the nature of the allegations of research misconduct and the specific allegations of research misconduct considered in the Investigation and the institutional charge shall be included in the report.
 - ii. Research Support: Description of and documentation of any governmental or privately sponsored research support for the research in question, including, for example, the federal or state agency supporting the research, the grant numbers, grant applications, contracts and publications listing such support.
 - iii. Policies and Procedures: Reference to and inclusion of the Rice policies and procedures under which the Investigation was conducted.
 - iv. Research Records and Evidence: Identification and summary of the research records and evidence reviewed, as well as any evidence taken into custody by the Panel but not reviewed.
 - v. Statement of Findings: For each separate allegation of research misconduct identified during the Investigation, a finding whether research misconduct did or did not occur, and if such misconduct did occur: (1) whether the research misconduct was falsification, fabrication, plagiarism, a practice that seriously deviated from those commonly accepted practices within the relevant research community for proposing, conducting, reviewing, or reporting research, a failure to comply with the federal requirements for protecting researchers, human and animal subjects and the public, or other violation of Rice policy, and whether any such misconduct was intentional, knowing or reckless, (2) a summary of the facts and the analysis of the facts that supports the conclusion, including a consideration of any reasonable explanation by the Respondent, (3) the person or persons responsible for the misconduct, (4) the seriousness of the misconduct, (5) the specific sponsored research support related to that allegation and finding, (6) whether any publications need correction or retraction, and (7) any current support or known applications or proposals for research support from governmental or private sources that the Respondent has pending.

- vi. Comments: Inclusion and consideration of any comments made on the draft report by the Respondents and complainants.
 - vii. Recommendations: If there is a finding that research misconduct has occurred, the Panel may recommend appropriate sanctions based on its understanding of the case. Even if the Panel concludes that research misconduct did not occur, it is nonetheless free to make recommendations as a result of the Investigation or a finding that other violations of University policies or procedures may have occurred.
- e. After the Panel has prepared its final report, it shall submit the report to the Provost, with a copy to each Respondent of the full report or those portions relevant to that Respondent.

VIII. *Time Period for Investigation.* The Panel should complete the entire Investigation within 120 days from the date the final membership on the Panel is set, including the preparation of the draft and final report and submission of the final report to the Provost. If the Panel decides that it will need additional time to complete its work, it shall communicate its request for additional time, including the amount of additional time it believes necessary and the justification for the extension, to the Research Integrity Officer, who will consider and act on the request, including communicating with any federal agencies whose concurrence may be required for an extension.

IX. *Review by the Provost.* After the Panel provides its final report, the Provost, at his/her discretion, may (i) ask any or all of the Respondents for their final written comments; (ii) seek clarification on various matters from the Panel; and/or (iii) refer the matter back to the Panel for additional investigation if he/she deems it necessary or appropriate. Afterwards, the Provost will conclude the Investigation by formally receiving the report. The Provost will then render his or her decision in a letter or memorandum that notes agreement or disagreement with the Panel's findings and recommendations and determines whether further administrative or disciplinary action on the part of the University is appropriate. The Provost's decision is final. The Provost will send a copy of the decision to the Research Integrity Officer, the Respondent(s), and the Panel members; he/she may also communicate the relevant results to any complainants. If further administrative or disciplinary action is appropriate, the Provost will send a copy of the final report and his/her decision to the President, the relevant dean(s) and/or the Vice-President for Administration so that further action may be initiated.

X. *Transmittal.* The Research Integrity Officer will (i) provide to the federal Office of Research Integrity or appropriate sponsor a copy of the Investigation report and attachments, (ii) state whether the Investigation found research misconduct (and if so, who committed it), (iii) state whether the University agrees with the Investigation's findings, and (iv) describe any pending or completed administrative actions taken against Respondent(s).

XI. *Retention and Custody of the Record.* The Vice Provost for Research shall maintain in a secure manner the records of research misconduct cases, including the evidence compiled and considered by the Panel, the Inquiry Report, the Investigatory Report and the Provost's review, for at least 7 years after completion of the research misconduct process.