

- proceedings (including any appeals) related to recommendations of sanctions such as those from the Faculty Rights and Responsibilities Committee, Academic Staff Committee or other school, college, departmental, or institutional review group.
- P. *Research Integrity Officer* (RIO) has the primary responsibility for implementing the policy and processes related to Research Misconduct. The Vice Provost for Research serves in this capacity at UWM. If the Vice Provost for Research has a Conflict of Interest or is otherwise unable to serve as RIO, the Provost will appoint an alternate RIO.
- Q. *Research Misconduct* means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research means a systematic experiment, study, evaluation, demonstration, or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research). (42 CFR § 93.222)
- 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. (42 CFR §93.103; 45 CFR §689.1)
- R. *Research Misconduct Proceedings* are the procedures detailed in this policy for investigating Research Misconduct.
- S. *Research Record* means the records of data or results (both physical and electronic) that embody the facts resulting from scientific inquiry, including but not limited to, research proposals, laboratory records, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents provided to Department of Health and Human Services (HHS), National Science Foundation (NSF) or other funder or an institutional official by the Respondent.
- T. *Respondent* is the person against whom the Allegation of Research Misconduct is directed or who is the subject of a Research Misconduct proceeding (42 CFR §93.225). Respondents may include, but are not limited to, faculty, research scientists/associates, academic staff, university staff, undergraduate and graduate students employed in research, fellows, guests, visiting faculty or staff, faculty on sabbatical leave, adjunct (courtesy) faculty when performing UWM work, faculty or staff on paid or unpaid leave, or emeritus(a) faculty or staff. Allegations of Research Misconduct against a UWM student in the context of coursework will be referred to the UWM Dean of Students (for undergraduates) or the UWM Dean of the Graduate School (for graduate students), for review consistent with Wisconsin Administrative Code UWS Ch. 14 (Student Academic Disciplinary Procedure) provided that, with respect to Allegations of Research Misconduct against a student in the context of work submitted for a thesis, capstone project, or dissertation resulting from federally funded research, the UWM Dean of Students or UWM Dean of the Graduate School, as appropriate, will conduct such review/investigation in consultation with the RIO. When student misconduct hearings are convened in relation to work presented in a thesis, capstone project or dissertation resulting from

federally funded research, the RIO should ensure that Evidence relevant to the case is presented by, or with assistance from, individuals with appropriate research expertise.

- U. *Retaliation* means an adverse action taken against a Complainant, witness, or an Inquiry or Investigation Panel member by an individual in response to a good faith Allegation of Research Misconduct or good faith cooperation with a Research Misconduct proceeding.

III. POLICY

- A. All members of the UWM community have a responsibility to report observed, suspected or apparent Research Misconduct to the Research Integrity Officer (RIO) or other UWM administrator who will forward the Allegation to the RIO. Members of the community external to UWM may also report information related to potential Research Misconduct. Anonymous Allegations will be considered.

If an individual is unsure whether an incident falls within the definition of Research Misconduct, he or she may contact the RIO to discuss the suspected Research Misconduct informally or hypothetically. If the circumstances described do not meet the definition of Research Misconduct, the RIO will refer the individual to the appropriate office or official for resolution.

- B. The Complainant should make Allegations in good faith, maintain confidentiality of the Allegation as appropriate, and cooperate with the Inquiry and/or Investigation as appropriate.
- C. This Policy applies to Allegations of Research Misconduct that occurred within six years prior to the date the institution received the Allegation, except as otherwise provided by law or policy. Including, by way of example, the following exceptions currently provided for by 42 CFR § 93.105:
 1. Subsequent use exception: The Respondent continues or renews any incident of alleged Research Misconduct that occurred before the six year limit though the citation, republication, or other use for the potential benefit of the Respondent of the research record that is alleged to have been fabricated, falsified, or plagiarized.
 2. Health or safety of the public exception: If the institution, in consultation with HHS Office of Research Integrity if appropriate, determines that the alleged misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public.
 3. “Grandfather” exception: If the institution received the Allegation of Research Misconduct before the effective date of 42 CFR § 93.105, which was May 17, 2005.
- D. To protect the integrity of any inquiry and investigation, all individuals involved in the inquiry or investigation of Allegations of Research Misconduct are expected to maintain the confidentiality of the Research Misconduct Proceeding

to the maximum extent possible under the circumstances. Certain disclosures, however, may be necessary to complete the investigation and/or resolution of the matter. In addition, all documents maintained by UWM are potentially subject to the provisions of the Wisconsin open records law.

E. Sequestration, maintenance, and custody of Research Records and Evidence

The RIO must:

1. Obtain custody of all Research Records and Evidence needed to conduct the Research Misconduct proceedings, using all reasonable and practical steps, either before or when the RIO notifies the Respondent of the Allegation, Inquiry, or Investigation;
2. Inventory the Research Records and Evidence;
3. Sequester the Research Records and Evidence in a secure manner except where the Research Records or Evidence involve scientific instruments shared by a number of users; in such cases, custody may be limited to copies of the data or Evidence on such instruments as long as those copies are substantially equivalent to the evidentiary value of the instruments;
4. Provide the Respondent copies of or reasonable supervised access to the Research Records, where appropriate;
5. Take custody of additional Research Records or Evidence that is discovered during the course of Research Misconduct Proceedings using all reasonable and practical efforts except where the Research Records or Evidence involve scientific instruments shared by a number of users; in such cases, custody may be limited to copies of the data or Evidence on such instruments as long as those copies are substantially equivalent to the evidentiary value of the instruments; and
6. Maintain the Research Records and Evidence as required.

F. The Research Misconduct Proceeding is conducted in three phases, Assessment, Inquiry and Investigation, described in Section IV.

G. Rights and Responsibilities

1. RIO has the primary responsibility for ensuring implementation of this policy, including:
 - a. Meeting with persons who are uncertain about bringing forth an Allegation;
 - b. Receiving Allegations of Research Misconduct;
 - c. Assessing an Allegation of Research Misconduct to determine whether it warrants an Inquiry;
 - d. Arranging for the sequestration and security of Research Records and other Evidence pertinent to the allegation;
 - e. Ensuring confidentiality, to the maximum extent possible, to those involved in the Research Misconduct Proceeding;
 - f. Ensuring that the Respondent(s), Complainant(s), and others involved in the proceedings are notified as required of the procedures and progress of the proceedings;

- g. Initiating an Inquiry or Investigation if warranted;
 - h. Providing general oversight of an Inquiry or Investigation for adherence to procedures, including those relating to confidentiality;
 - i. Ensuring that no person involved in the process has an unresolved or actual Conflict of Interest;
 - j. Acting on requests for extensions of time from an Inquiry Panel or an Investigation Panel;
 - k. Protecting from Retaliation or restoring the positions and reputations of good faith participants in the proceedings in cooperation with other institutional officials;
 - l. Communicating with relevant federal agencies and other sponsors as required by these agencies or sponsors;
 - m. Ensuring that appropriate governance groups or institutional offices or departments are apprised of their roles and responsibilities for disposition of findings of Research Misconduct or of other issues that may require action as a result of the Assessment, Inquiry, or Investigation; and,
 - n. Maintaining full Records of the Research Misconduct Proceedings securely and as required by federal agencies.
2. The Respondent is entitled to:
- a. A good faith effort by the RIO to notify the Respondent that an Inquiry is beginning and to provide copies of the policies and procedures that will be followed;
 - b. An opportunity to comment on a draft Inquiry Reports and/or a draft Investigation Report and have his/her comments either addressed therein or attached to the relevant final report;
 - c. Timely written notification of the progress of the proceedings;
 - d. Be interviewed during the Investigation and have factual corrections to the recordings or transcripts included in the record of the Investigation;
 - e. Supervised access to the Evidence on which the Investigation Final Report is based;
 - f. Be advised and represented by counsel or other representative at his/her expense throughout the Research Misconduct Proceedings; and
 - g. Reasonable and practical efforts to protect or restore, if requested and as appropriate, the reputation of persons alleged to have engaged in Research Misconduct, but against whom no finding of Research Misconduct is made.
3. The Respondent has a responsibility to:
- a. Provide the RIO, Inquiry Panel, and/or Investigation Panel with Research Records and/or other Evidence as requested.
 - b. Maintain the confidentiality of the proceedings;

- c. Cooperate fully with the conduct of an Inquiry or Investigation;
- d. Demonstrate candor during all phases of the Research Misconduct Proceedings;
- e. Avoid actions which are, or could be perceived as retaliatory against any individual involved with the Research Misconduct Proceedings; and;
- f. Prove any defenses raised by a preponderance of the Evidence.

IV. Research Misconduct Proceedings

The procedures for the conduct of the Research Misconduct Proceedings are:

A. **Assessment:** After receipt of an Allegation of Research Misconduct, the RIO will promptly assess the allegation to determine if an Inquiry is warranted. An Inquiry must be conducted if the Allegation meets the definition of Research Misconduct and there are sufficient specifics so that potential evidence of Research Misconduct could be identified.

1. In conducting the Assessment, the RIO may interview the Complainant, Respondent, or other witnesses, or gather data beyond that submitted with the Allegation to determine whether the Allegation is sufficiently credible and specific.
2. The Assessment should be brief, and, if possible concluded within 10 business days.
3. If the conclusion of the Assessment is that criteria for an Inquiry are met, the RIO shall as quickly as practical convene an Inquiry.
 - a. The RIO must notify the Respondent in writing at the time of or before the beginning of Inquiry of the Allegations and the procedures for addressing the Allegations. If additional Respondents are identified during the process, they must be likewise notified in writing.
 - b. If an Inquiry is to be convened, the RIO should take all reasonable and practical steps, on or before the date on which the Respondent is notified or the Inquiry begins, to obtain custody of and secure all the Research Records and Evidence needed to conduct the Research Misconduct Proceeding.
4. If the conclusion is that criteria for an Inquiry are not met, the RIO will work to resolve the issue or refer the issue as appropriate.

B. **Inquiry:** The purpose of the Inquiry is to advise the RIO whether or not to conduct an Investigation of the Allegation. The Inquiry Panel reviews available

Evidence to separate allegations deserving of further investigation from those which are unjustified. An Inquiry does not require full review of all the Evidence related to the Allegation.

1. The Inquiry, including preparation of the Inquiry Panel Final Report, must be completed within 60 calendar days of the initiation of the Inquiry. Initiation of the Inquiry is the constitution of and charge to the Inquiry Panel. If the Inquiry cannot be completed within this time frame, the RIO must approve a request for additional time. This must be documented in the records of the Inquiry.
2. The Inquiry Panel shall be composed of at least three individuals appointed by the RIO who do not have unresolved personal, professional or financial conflicts of interest with the Respondent or the Complainant and who are unbiased and have the competence and expertise to evaluate the Evidence and issues related to the Allegation and conduct interviews of the Respondent, Complainant and other witnesses. At least one member of the Inquiry Panel shall be a faculty member; other members should provide the perspective of the Respondent's employment group as much as possible. If the Respondent is a faculty member, the majority of the Inquiry Panel shall be faculty. When necessary to secure the needed expertise or to avoid Conflict of Interest, the RIO may appoint panel members external to the University, preferably from UW System institutions or from institutions with which UWM has consortial arrangements. The RIO appoints the chair of the Inquiry Panel.
3. Charge and Conduct of Inquiry Panel
The RIO will prepare a written charge for the Inquiry Panel that:
 - a. identifies the Inquiry Panel members;
 - b. identifies the Respondent;
 - c. describes the Allegation and any related issues identified during the Assessment;
 - d. defines Research Misconduct;
 - e. states that the purpose of the Inquiry is to conduct an initial review of the Evidence, including testimony from the Respondent, Complainant, and key witnesses, to advise the RIO whether an Investigation is warranted or not;
 - f. states that an Investigation is warranted if the Inquiry Panel determines that the Allegation falls within the definition of Research Misconduct in this policy and that the Allegation may have substance based on the Inquiry Panel's review of the Evidence;
 - g. states that the role of the Inquiry Panel is not to determine whether Research Misconduct definitely occurred or who was responsible;

- h. informs the Inquiry Panel of its responsibility to prepare a written report of the Inquiry according with this policy and any applicable federal regulations;
 - i. informs the Inquiry Panel that confidentiality of the panel members is expected; and
 - j. sets a time for completion of the Inquiry.
4. A copy of the charge will be provided to the Respondent.
5. If the Inquiry Panel determines that the scope of the Inquiry should be expanded beyond the initial charge, the RIO should be so notified and, with the approval of the RIO, the Respondent will be notified of the expansion of the Inquiry and additional Research Records and Evidence may be sequestered.
6. The process of the Inquiry includes:
 - a. interviewing the Respondent, Complainant, and key witnesses as appropriate;
 - b. preparing written summaries of the interviews;
 - c. keeping general minutes of the meetings;
 - d. examining relevant Research Records and Evidence;
 - e. consulting with the RIO at any time about the scope, process and policy related to the Inquiry;
 - f. preparing a confidential draft of the report of the Inquiry for review and comment by the RIO, who subsequently will send the draft to the Respondent and Complainant for comment to be returned to the RIO within 10 calendar days; and,
 - g. completing the final written report according to this policy within 60 calendar days unless the Inquiry Panel has requested and received approval of an extension from the RIO.
7. The Inquiry Panel Final Report must include:
 - a. The name and position of the Respondent;
 - b. A description of the Allegation of Research Misconduct;
 - c. The funding source including grant numbers, grant applications, contracts, publications listing the funding support, as applicable;
 - d. The basis for recommending or not recommending that the Allegations warrant Investigation, and;
 - e. Any comments on the report by the Respondent or Complainant.
8. Conclusion of the Inquiry
 - a. The Inquiry phase of the Research Misconduct Proceedings is concluded when the RIO receives the Inquiry Final Report.

- b. The RIO makes a determination on whether to pursue an Investigation based on the available Evidence and the Inquiry Final Report.
- c. The RIO will notify the Respondent and the Complainant of the decision and provide a copy of the final Inquiry Final Report.
- d. If the decision is that an Investigation is not warranted, the RIO will:
 - i. determine if there are issues that must be resolved through other committees or offices/officials at UWM;
 - ii. forward relevant materials to those committees and offices/officials as appropriate;
 - iii. take steps to prevent any Retaliation, if appropriate;
 - iv. takes reasonable and practical steps, if requested and as appropriate, to restore and protect the Respondent's reputation including but not limited to notifying individuals involved in or aware of the Inquiry of the outcome; publicizing the final outcome in any forum in which the Allegation of Research Misconduct was previously publicized; and,
 - v. document and retain the decision to not further investigate (42 CFR 93.309.c)
- e. If an Investigation is warranted based upon the Inquiry, the RIO must:
 - i. initiate the Investigation within 30 calendar days;
 - ii. notify the Respondent; and,
 - iii. if the Allegation to be investigated involves research supported by the National Science Foundation (NSF) or the Public Health Service (PHS), policies and timeframes for notification of each agency must be followed (42 CFR §93.309 for PHS; 45 CFR § 689.4 for NSF).

C. Investigation: The purpose of the Investigation is to develop a factual record by exploring the Allegation in detail and examining the Evidence in depth leading to a determination on whether Research Misconduct has been committed, by whom, and to what extent. The Investigation Panel will also determine whether additional instances of possible Research Misconduct exist that would justify broadening the scope beyond the initial Allegation.

- 1. The Investigation, including conducting the Investigation and preparing the report of the findings must be completed within 120 calendar days from charging the Investigation Panel.

2. The Investigation Panel shall be composed of at least three individuals appointed by the RIO who do not have unresolved personal, professional or financial conflicts of interest with the Respondent or the Complainant and who are unbiased and have the competence and expertise conduct the Investigation, evaluate the Evidence and issues related to the Allegation, and conduct interviews of the Respondent, Complainant and other witnesses. At least one member of the Investigation Panel shall be a faculty member; other members should provide the perspective of the Respondent's employment group as much as possible. If the Respondent is a faculty member, the majority of the panel shall be faculty. When necessary to secure the needed expertise or to avoid conflict interest, the RIO may appoint panel members external to the University, preferably from UW System institutions or institutions with which UWM has consortial arrangements. One member of the Inquiry Panel may serve on the Investigation Panel if that member's expertise is required and no other potential members can be identified within or external to UWM with the necessary expertise or without Conflict of Interest. The RIO appoints the chair of the Investigation Panel.

3. Charge to Investigation Panel

The RIO will prepare a written charge for the Investigation Panel that:

- a. identifies the panel members;
- b. identifies the Respondent;
- c. describes the Allegation(s) and related issues identified during the Inquiry;
- d. informs the Investigation Panel that it must conduct the Investigation as written in this policy and according to any applicable regulations;
- e. specifies Research Misconduct as defined in this policy;
- f. informs the Investigation Panel of the expectation of confidentiality of the Research Misconduct Proceeding;
- g. informs the Investigation Panel that it must evaluate the Evidence and testimony to determine whether, based on a preponderance of the evidence, Research Misconduct occurred and, if so, the type and extent and who was responsible;
- h. informs the Investigation Panel that in order to determine if the Respondent committed Research Misconduct the Investigation Panel must find that a preponderance of the evidence meets the Evidentiary Standards as defined in this policy;
- i. informs the Investigation Panel that any defenses raised by the Respondent must be proven by the Respondent by a preponderance of the evidence;

- j. informs the Investigation Panel that it must prepare a written report of the Investigation that meets the requirements of this policy and any federal regulations; and,
 - k. sets a time for the completion of the Investigation.
4. The RIO will provide the Respondent with a copy of the charge.
5. Conduct of the Investigation
The Investigation Panel will:
 - a. use diligent efforts to ensure that the Investigation is thorough and sufficiently documented;
 - b. examine all Research Records and Evidence relevant to making a decision on the merits of the Allegation(s);
 - c. take reasonable steps to ensure an impartial and unbiased Investigation to the maximum extent practical including presentation of Research Records and Evidence that supports or disputes the misconduct;
 - d. inform Respondent, Complainant, and witnesses of the expectation of confidentiality of the Research Misconduct Proceedings;
 - e. interview the Respondent, Complainant and any other person who has been identified as having information about any relevant aspects of the Investigation, including witnesses identified by the Respondent;
 - f. record or transcribe each interview and provide the recording or transcript to the interviewee for correction;
 - g. include the recording or transcript in the record of the Investigation;
 - h. reasonable all significant issues and leads discovered that are determined to be relevant to the Investigation including Evidence of any additional instances of possible Research Misconduct;
 - i. request expert opinion and/or additional information, records or data, if determined to be necessary;
 - j. prepare a confidential draft of the report of the Investigation for review by the RIO and for the RIO to send to the Respondent and Complainant to allow for comments to be returned to the RIO within 30 calendar days;
 - k. provide the Respondent, concurrent with the draft report, a copy of or supervised access to the Evidence on which the report is based;
 - l. review comments from the RIO, Respondent, and Complainant; and,
 - m. complete the final written report according to this policy within 120 calendar days unless the Investigation Panel has requested

and received approval of an extension from the RIO and from the Office of Research Integrity if the research was PHS funded.

6. The Investigation Panel Final Report must include (42 CFR § 93.313):
 - a. Description of the Allegation(s);
 - b. Source of financial support for the research including specifics about a grant or other funding source;
 - c. Description of the specific institutional charge of Research Misconduct;
 - d. Policies and procedures under which the Investigation was conducted;
 - e. Research Records and Evidence;
 - f. Statement of findings for each separate Allegation identified and whether Research Misconduct did or did not occur and if so,
 - i. Specify the type of misconduct and whether intentional, knowing, or in reckless disregard;
 - ii. Summarize the facts and the analysis that support the conclusion and consider any reasonable explanation provide by the Respondent;
 - iii. Identify the specific source of support;
 - iv. Identify whether any publications need correction or retraction;
 - v. Identify the personnel responsible for the misconduct; and;
 - vi. List any current or pending support the Respondent has with any funding agency.
 - g. Include and consider any comments on the draft report by the Respondent or Complainant
7. Disposition and Post Investigation Proceedings.
 - a. Investigation concludes no misconduct occurred. UWM shall make all reasonable and practical efforts, if requested and as appropriate, to protect or restore the reputation of any Respondent, Complainant, or witness who has participated in the Research Misconduct Proceedings. The efforts may include but are not limited to notifying individuals involved in or aware of the Investigation of the final outcome; publicizing the final outcome in any forum in which the Allegation of Research Misconduct was previously publicized.
 - b. Investigation concludes misconduct occurred.
 - i. The RIO will send the Investigation Final Report to the appropriate governance committee or supervisor depending on the relationship of the Respondent to

the University with a copy to the Chancellor and Provost.

- If the Respondent is faculty, the Report shall be sent to the Dean to recommend appropriate sanctions/discipline.
- If the Respondent is an undergraduate student, the Report shall be sent to the Dean of Students to recommend appropriate sanctions/discipline.
- If the Respondent is a Graduate Student, the Report shall be sent to the Dean of the Graduate School to recommend appropriate sanctions/discipline.
- If the Respondent is Academic Staff, the Report shall be sent to the Dean or Division Head to recommend appropriate sanctions/discipline.
- If the Respondent is University Staff, the Report shall be sent to the immediate supervisor to recommend appropriate sanctions/discipline.
- For other classifications of Respondents, the Report shall be sent to the immediate supervisor or appropriate division head to recommend appropriate sanctions/discipline.

ii. Sanctions or discipline imposed (including any appeals) must be sent to the RIO for inclusion in the Records of Research Misconduct Proceedings.

c. The RIO will review the findings to determine if there are other issues that should be referred to an appropriate governance committee, office, UWM official, or institutional department.

D. Notification of special circumstances for Public Health Service (PHS) or National Science Foundation (NSF) related research. If at any time during the Research Misconduct Proceeding an institution has reason to believe that any of the following special circumstances exists, the RIO must notify the Office of Research Integrity or the Office of Inspector General, as appropriate:

1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
2. Health and Human Safety (HHS) resources or interests are threatened;
3. Research activities should be suspended;
4. Reasonable indication of possible violations of civil or criminal law;
5. Federal action is required to protect the interests of those involved in the Research Misconduct proceeding;

6. The research institution believes the Research Misconduct Proceeding may be made public prematurely so that HHS may take appropriate steps to safeguard Evidence and protect rights of those involved; or
 7. The research community or public should be informed. (42 CFR § 93.318; 45 CFR § 689.4)
- E. Records of the Research Misconduct Proceeding must be maintained securely for 7 years after completion of all internal and external proceedings including appeals related to the Allegation of Research Misconduct (42 CFR §93.317 b).
- F. Proceedings involving other disputes or issues, including but not limited to negligence, authorship, financial improprieties, safety, human/animal ethics violations, criminal or other personnel actions, may occur simultaneously with these Research Misconduct Proceedings.
- G. Completion of the Case
All Inquiries and Investigations will be carried through to completion except as otherwise provided herein.
1. If the Respondent admits that Research Misconduct occurred and that he/she committed the Research Misconduct or if a settlement with Respondent has been reached, or for any other reason except the closing of a case at Inquiry phase on the basis that an investigation is not warranted or a finding at the Investigation phase of no misconduct, the RIO may, with approval of the applicable federal agency or sponsor of the research, determine that the proceedings for review of the Allegation be terminated and the case be referred as appropriate. (42 CFR §93.316)
 2. If the Respondent's institutional employment is terminated by resignation or otherwise, the RIO will ensure that the process for addressing the Allegations is appropriately completed.
 3. If the Respondent refuses to participate in the process after resignation, the RIO in consultation with the appropriate panel will determine whether to proceed in the absence of the Respondent.
 4. The RIO will notify applicable federal or other sponsors with information about the finalization of the case to the extent required.