| | CAU Administrative Policy |
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| **Policy Title** | Responding to Research Misconduct (formerly titled "Misconduct in Research") |
| **Policy Number** | 11.1 |
| **Effective Date** | May 14, 2026 |

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| **Responsible Office(s)** | Research and Sponsored Programs |
| **Supporting Office(s)** | --- |
| **Covered Individuals** *(check all that apply)* | ☒ Faculty ☒ Staff ☒ Students ☒ Vendors ☒ Volunteers/Visitors |
| **Original Issue Date** | January 27, 2014 |
| **Effective Date** | May 14, 2026 |
| **Last Revised Date(s)** | May 25, 2017; January 23, 2014 |
| **Approved By** | University President |
| **Review Approval Date** | May 1, 2026 |
| **Approver's Signature (if President)** | Dr. George T. French |

**THE FOLLOWING SECTION IS FOR PLACEMENT ON THE UNIVERSITY'S WEBSITE**

# Responding to Research Misconduct

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# General Policies and Principles

Clark Atlanta University ("CAU" or "the University") is committed to upholding the highest standards of scientific rigor in research.[1] This institution is committed to fostering an environment that promotes research integrity and the responsible conduct of research, discourages research misconduct, and deals promptly with allegations or evidence of possible research misconduct.[2]

All institutional members, including all researchers, faculty members, students, staff, sub- awardees, and others as identified in the Definitions section below, are expected to conduct research with honesty, rigor, and transparency. Each institutional member is responsible for contributing to an organizational culture that establishes, maintains, and promotes research integrity and the responsible conduct of research.

CAU strives to reduce the risk of research misconduct, support all good-faith efforts to report suspected misconduct, promptly and thoroughly address all allegations of research misconduct, rectify the scientific record, and/or restore researchers' reputations, as appropriate, and to the extent reasonably possible, protect the positions and reputations of good-faith complainants, witnesses, and committee members.

Research misconduct is contrary to the interests of CAU, the health and safety of the public, the integrity of research, and the conservation of public funds. Both the University and its institutional members have an affirmative duty to protect those funds from misuse by ensuring the integrity of all research conducted on behalf of CAU.[3]

CAU is responsible for ensuring that these policies and procedures for addressing allegations of research misconduct meet the requirements of the PHS Policies on Research Misconduct (42 CFR Part 93, "the PHS regulation"). The University will establish and maintain these policies and procedures, inform all institutional members about these policies and procedures, and make these policies and procedures publicly available. CAU is committed to following these policies and procedures when responding to allegations of research misconduct.[4]

For definitions of terms used in this section and elsewhere, see the Definitions section.

# Scope and Applicability

These policies and procedures apply to all allegations of research misconduct, regardless of the funding source, but particularly involving:

1. Applications or proposals for PHS support for biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research or research training.[5]
2. PHS-supported biomedical or behavioral research.[6]
3. PHS-supported biomedical or behavioral research training programs.[7]

4. PHS-supported activities that are related to biomedical or behavioral research or research training, such as, but not limited to, the operation of tissue and data banks or the dissemination of research information.[8]
5. Research records produced during PHS-supported research, research training, or activities related to that research or research training.[9]
6. Research proposed, performed, reviewed, or reported, as well as any research record generated from that research, regardless of whether an application or proposal for PHS funds resulted in an awarded grant, contract, cooperative agreement, subaward, or other form of PHS support.[10]
7. Any other training, grant, contract, cooperative agreement, or other grant supporting research.
8. Any non-governmentally sponsored or funded research, including proposals or applications related to research, conducted at CAU.

These policies and procedures apply only to research misconduct occurring within six years of the date[11]HHS or CAU receives an allegation of research misconduct, subject to the following exceptions:

- The six-year time limitation does not apply if the respondent continues or renews any incident of alleged research misconduct that occurred before the six-year period through the use of, republication of, or citation to the portion(s) of the research record alleged to have been fabricated, falsified, or plagiarized, for the potential benefit of the respondent ("subsequent use exception").[12] For alleged research misconduct that appears subject to this subsequent use exception, but CAU determines is not subject to the exception, the University will document its determination that the subsequent use exception does not apply and will retain this documentation for the later of seven years after completion of the institutional proceeding or the completion of any HHS proceeding.[13]
- The six-year time limitation also does not apply if ORI or CAU, following consultation with ORI, determines that the alleged research misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public.[14]

These policies and procedures do not supersede or establish an alternative to the PHS regulation or any existing regulations for handling research misconduct involving non-PHS supported research.[15] They do not replace the PHS regulation, and in case of any conflict between this document and 42 CFR Part 93, the PHS regulation will prevail. They are intended to enable CAU to comply with the requirements of the PHS regulation.

# Definitions

**Accepted practices of the relevant research community.** This term means those practices established by 42 CFR Part 93 regarding research misconduct and by PHS funding components, as well as commonly accepted professional codes or norms within the overarching community of researchers and institutions that apply for and receive PHS awards.[16]

**Administrative record.** The administrative record comprises: the institutional record; any information provided by the respondent to ORI, including but not limited to the transcript of any virtual or in-person meetings under § 93.403(b) between the respondent and ORI, and correspondence between the respondent and ORI; any additional information provided to ORI while the case is pending before ORI; and any analysis or additional information generated or obtained by ORI. Any analysis or additional information generated or obtained by ORI will also be made available to the respondent.[17]

**Allegation.** This term is a disclosure of possible research misconduct through any means of communication and brought directly to the attention of an institutional or HHS official.[18]

**Assessment.** Assessment means a consideration of whether an allegation of research misconduct appears to fall within the definition of research misconduct; appears to involve PHS-supported biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research or research training; and is sufficiently credible and specific so that potential evidence of research misconduct may be identified. The assessment only involves the review of readily accessible information relevant to the allegation.[19]

**Complainant.** Complainant means an individual or entity who in good faith makes an allegation of research misconduct.[20]

**Conflict of Interest**. A conflict of interest is the real or apparent interference of one person's interests with the interests of another person where potential bias may occur due to prior or existing personal or professional relationships.[21]

**Evidence.** Evidence means anything offered or obtained during a research misconduct proceeding that tends to prove or disprove the existence of an alleged fact. Evidence includes documents, whether in hard copy or electronic form, information, tangible items, and testimony.[22]

**Fabrication.** Fabrication means making up data or results and recording or reporting them.[23]

**Falsification.** Falsification means 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.[24]

**Good faith.** (a) Good faith as applied to a complainant or witness means having a reasonable belief in the truth of one's allegation or testimony, based on the information known to the complainant or witness at the time. An allegation or cooperation with a research misconduct proceeding is not in good faith if made with knowledge of, or reckless disregard for, information that would negate the allegation or testimony; however, the existence of countervailing information to the witness' testimony is not sufficient to establish lack of good faith but is information that should be considered as appropriate during the research misconduct proceeding. (b) Good faith as applied to an institutional or committee member means cooperating with the research misconduct proceeding by impartially performing the duties assigned for the purpose of helping an institution meet its responsibilities under 42 CFR Part 93. An institutional or committee member does not act in good faith if their acts or omissions during the research misconduct proceedings are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.[25]

**Inquiry.** Inquiry means preliminary information gathering and preliminary fact-finding that meets the criteria and follows the procedures of § 93.307 through § 93.309 and the section on the Inquiry, below.[26]

**Institution.** Institution means any person or organization that applies for or receives PHS or other financial support for any activity or program that involves the conduct of biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research or training. This includes, but is not limited to, colleges and universities, PHS intramural biomedical or behavioral research laboratories, research and development centers, national user facilities, industrial laboratories or other research institutes, research institutions, and independent researchers.[27]

**Institutional Deciding Official.** Institutional Deciding Official means the institutional official who makes final determinations on allegations of research misconduct and any institutional actions. At CAU the Institutional Deciding Official shall be the Provost. The same individual cannot serve as the Institutional Deciding Official and the Research Integrity Officer and members.[28]

**Institutional member.** Institutional member (or members) means an individual (or individuals) who is employed by, is an agent of, or is affiliated by contract or agreement with an institution. Institutional members may include, but are not limited to, officials, tenured and untenured faculty, teaching and support staff, researchers, research coordinators, technicians, postdoctoral and other fellows, students, volunteers, subject matter experts, consultants, attorneys, volunteers or employees or agents of contractors, subcontractors, or sub-awardees.[29]

**Institutional record.** The institutional record comprises: (a) The records that the institution compiled or generated during the research misconduct proceeding, except records the institution did not consider or rely on. These records include but are not limited to (1) documentation of the assessment as required by § 93.306(c) and the section on Assessment, below; (2) if an inquiry is conducted, the inquiry report and all records (other than drafts of the report) considered or relied on during the inquiry, including, but not limited to, research records and the transcripts of any transcribed interviews conducted during the inquiry, information the respondent provided to the institution, and the documentation of any decision not to investigate as required by § 93.309(c) and the section on the Inquiry, below; (3) if an investigation is conducted, the investigation report and all records (other than drafts of the report) considered or relied on during the investigation, including, but not limited to, research records, the official transcripts of each interview conducted pursuant to § 93.310(g) and the section on the Investigation, below, and information the respondent provided to the institution; (4) decision(s) by the Institutional Deciding Official, such as the written decision from the Institutional Deciding Official under § 93.314 and the definition of the Institutional Deciding Official, above; (b) a single index listing all the research records and evidence that the institution compiled during the research misconduct proceeding, except records the institution did not consider or rely on; and (c) a general description of the records that were sequestered but not considered or relied on.[30] The institutional record will not include any materials generated by the University to facilitate assessment, inquiry, investigation or deliberation related to research misconduct, including but not limited to, training materials, notes between and among institutional personnel, committee members, and decision-

makers regarding the case under consideration or research misconduct in general, temporary recordings or AI transcripts of interviews, deliberative documents or worksheets, draft reports, or any other related information.

**Intentionally.** To act intentionally means to act with the aim of carrying out the act.[31]

**Investigation.** Investigation means the formal development of a factual record and the examination of that record to determine whether misconduct has occurred and, if so, the responsible person(s) and the seriousness of the conduct following the criteria and procedures of § 93.310 through 93.317 and the section on Investigations, below.[32]

**Knowingly.** To act knowingly means to act with awareness of the act.[33]

**Plagiarism.** Plagiarism means the appropriation of another person's ideas, processes, results, or words, without giving appropriate credit. (a) Plagiarism includes the unattributed verbatim or nearly verbatim copying of sentences and paragraphs from another's work that materially misleads the reader regarding the contributions of the author. It does not include the limited use of identical or nearly identical phrases that describe a commonly used methodology. (b) Plagiarism does not include self-plagiarism or authorship or credit disputes, including disputes among former collaborators who participated jointly in the development or conduct of a research project. Self-plagiarism and authorship disputes do not meet the definition of research misconduct although they may raise ethical issues under the University's Code of Ethical Conduct.[34]

**Preponderance of the evidence.** Preponderance of the evidence means proof by evidence that, compared with evidence opposing it, leads to the conclusion that the fact at issue is more likely true than not.[35]

**PHS support.** PHS support means PHS funding, or applications or proposals for PHS funding, for biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research or training, that may be provided through funding for PHS intramural research; PHS grants, cooperative agreements, or contracts; subawards, contracts, or subcontracts under those PHS funding instruments; or salary or other payments under PHS grants, cooperative agreements, or contracts.[36]

**Recklessly.** To act recklessly means to propose, perform, or review research, or report research results, with indifference to a known risk of fabrication, falsification, or plagiarism.[37]

**Research Integrity Officer**. The Research Integrity Officer (RIO) refers to the institutional official responsible for administering the University's written policies and procedures for addressing allegations of research misconduct in compliance with 42 CFR Part 93 317 and the section on Research Integrity Officer, below.[38]

**Research misconduct.** Research misconduct means:

1) fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion; authorship or credit disputes; or self-plagiarism; and
2) significant departure from accepted practices in the relevant research community including, but not limited to, failure to comply with Federal or University requirements pertaining to the conduct of research and other serious deviations from accepted practices in research.

In addition, the University will review alleged misconduct related to research that is not in the above categories under policies related to the University Code of Ethical Conduct, Faculty Personnel Policies and Procedures, or Code for Student Conduct, as appropriate. Such alleged misconduct includes, but is not limited to, the following:

- the condoning or commitment of scientific fraud in research such as deception or misrepresentation of one's scientific work, omissions in publications of non-conforming or conflicting observations of data, or the theft of research methods or data; or
- other violations of University policy related to research such as failure to comply with University policies and procedures regarding research or the grant process, to notify University authorities whenever it becomes obvious that research misconduct has occurred, and to cooperate in an investigation under these procedures, which responsibilities continue after departure from the University.

**Research misconduct proceeding.** Research misconduct proceeding means any actions related to alleged research misconduct taken under this policy and 42 CFR Part 93, including allegations, assessments, inquiries, investigations, ORI oversight reviews, and appeals under subpart E of 42 CFR Part 93.[39]

**Research record.** Research record means the record of data or results that embody the facts resulting from scientific inquiry. Data or results may be in physical or electronic form. Examples of items, materials, or information that may be considered part of the research record include, but are not limited to, research proposals, raw data, processed data, clinical research records, laboratory records, study records, laboratory notebooks, progress reports, manuscripts, abstracts, theses/dissertations, records of oral presentations, online content, lab meeting reports, and journal articles. "Data or results" shall be interpreted broadly to encompass all forms of scholarly information about the research at issue without regard to the type of recording or storage media, including, but not limited to, field notes, interviews, notebooks and folders, laboratory observations, computers and other research equipment, CD-ROMs, hard drives, floppy disks, Zip disks, back-up tapes, USB drives, machine counter tapes, research interpretations and analysis, tables, slides, photographs, charts, gels, individual facts, statistics, tissue samples, reagents, and documented oral representations of research results, as well as any documents and material provided to a research sponsor or a University official by a respondent in the course of the research misconduct proceeding. Researchers have a responsibility to store and maintain such data responsibly. However, the absence of such data shall not impede the review of research misconduct. [40]

**Respondent.** Respondent means the individual against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding. There can be more than one respondent in an assessment, inquiry, or investigation. [41]

**Retaliation.** Retaliation means an action taken against a complainant, witness, or committee member involved in a research misconduct proceeding by an institution or one of its members that adversely affects that individual, particularly with regard to employment or student status at the University, in response to (a) a good faith allegation of research misconduct or (b) good faith cooperation with a research misconduct proceeding.[42]

# Roles, Rights, and Responsibilities

## The University

### General Responsibilities

The University will conduct an assessment and, if appropriate, an inquiry or investigation regarding each allegation of research misconduct it receives related to research misconduct in a thorough, competent, objective, and fair manner and take appropriate action including, but not limited to, retraction, discipline, or other actions necessary to protect the interests of public health and to remedy, where possible, specific issues identified in the research misconduct proceeding.[43] The University will take all reasonable and practical steps to ensure the cooperation of respondents and other institutional members with research misconduct proceedings, including, but not limited to, their providing information, research records, and other evidence.[44]

To the extent possible, the University will limit disclosure of the identity of respondents, complainants, and witnesses while conducting the research misconduct proceedings to those who need to know, inform all institutional members about these policies and procedures, and make these policies and procedures publicly available.[45] This limitation on disclosure no longer applies once the University has made a final determination of research misconduct findings.[46] The University agrees to cooperate with ORI during any research misconduct proceeding or compliance review, including addressing deficiencies or additional allegations in the institutional record if directed by ORI and to assist in administering and enforcing any HHS administrative actions imposed on institutional members.[47] The University may also take steps to manage published data under review in, or related to, the research misconduct proceeding or acknowledge publicly that such data may be unreliable.[48]

### Responsibilities During and After a Research Misconduct Proceeding

Except as may otherwise be prescribed by applicable law, the University will maintain confidentiality for any records or evidence from which research subjects might be identified and will limit disclosure to those who need to know to carry out a research misconduct proceeding.[49] Before or at the time of notifying the respondent of the allegation(s) and whenever additional items become known or relevant, the University will promptly take all reasonable and practical steps to obtain all research records and

other evidence and sequester them securely.[50] The University will ensure that the institutional record contains all required elements, i.e., research records that were compiled and considered during the proceedings, assessment documentation, and inquiry and/or investigation reports. Upon completion of the inquiry, the University will provide ORI with the complete inquiry report and add it to the institutional record.[51] The University will maintain the institutional record and all sequestered research records and other evidence in a secure manner for seven years after completion of the institutional and/or HHS proceeding.[52]

The University will provide information related to the alleged research misconduct and proceedings to ORI upon request and transfer custody or provide copies of the institutional record or any component of it and any sequestered evidence to HHS, regardless of whether the evidence is included in the institutional record.[53] Additionally, the University will promptly notify ORI of any special circumstances that may arise.[54]

Disclosure of the identity of respondents, complainants, and witnesses while the University is conducting the research misconduct proceedings is limited to those who need to know, which the University will determine, consistent with a thorough, competent, objective, and fair research misconduct proceeding, and as allowed by law. Those who need to know may include institutional review boards, journals, editors, publishers, co-authors, and collaborating institutions.[55]

### Responsibilities to the Complainant(s)

The University will make a good faith effort to receive and review all allegations from named complainants or anonymous whistleblowers regarding allegations of research misconduct. It will provide confidentiality consistent with the expectations of this policy for all complainants in a research misconduct proceeding. The University will also take precautions to ensure that individuals responsible for carrying out any part of the research misconduct proceeding do not have potential, perceived, or actual personal, professional, or financial conflicts of interest with the complainant(s).[56] The University agrees to take all reasonable and practical steps to protect the positions and reputations of complainants and to protect these individuals from retaliation by respondents and/or other institutional members.[57] If [CAU chooses to notify one complainant of the inquiry results in a case, all complainants will be notified by the University, to the extent possible.[58]

### Responsibilities to the Respondent(s)

The University will make a good faith effort to inform the respondent in writing of the allegations of research misconduct when an inquiry is opened and of the final determination of that inquiry and any subsequent investigation. [59] As with complainants, the University will provide confidentiality consistent with this policy to all respondents in a research misconduct proceeding. The University will take precautions to ensure that individuals responsible for carrying out any part of the research misconduct proceeding do not have unresolved personal, professional, or financial conflicts of interest with, but not limited to, the respondent.[60] The University is responsible for giving the respondent(s) copies of or supervised access to the sequestered research records.[61] The University will notify the respondent whether the inquiry found that an investigation is warranted, provide the respondent an opportunity to

review and file a written response to the draft and final inquiry report, and attach their comments to this final inquiry report.[62] If an investigation is commenced, the University must notify the respondent, give written notice of any additional allegations raised against them not previously addressed by the inquiry report, and allow the respondent(s) an opportunity to review the witness transcripts with the draft investigation report. [63] The University will give the respondent(s) an opportunity to read and file a written response to the draft investigation report and any information or allegations added to the institutional record.[64]

The University will give due consideration to admissible, credible evidence of honest error or difference of opinion presented by the respondent.[65]

The University will bear the burden of proof, by a preponderance of the evidence as indicated in the section on Evidence, below, for making a finding of research misconduct.[66] The University will make all reasonable, practical efforts, if requested and as appropriate, to protect or restore the reputation of respondents against whom no finding of research misconduct is made.[67]

### Responsibilities to Committee Members

The University will ensure that a committee, consortium, or person acting on the University's behalf conducts research misconduct proceedings in compliance with applicable regulations including the PHS regulation. The University will take all reasonable and practical steps to protect the positions and reputations of good-faith committee members and to protect these individuals from retaliation.[68]

### Responsibilities to the Witness[es]

The University will provide confidentiality for all witnesses. It will take precautions to ensure that individuals responsible for carrying out any part of the proceedings do not have unresolved personal, professional, or financial conflicts of interest with the witnesses.[69] The University will also take all reasonable and practical steps to protect the positions and reputations of witnesses and to protect these individuals from retaliation.[70]

## Research Integrity Officer

The Research Integrity Officer (the "RIO") is the institutional official responsible for administering CAU's written policies and procedures for addressing allegations of research misconduct in compliance with the PHS regulation.[71] The same individual will not serve as both the Institutional Deciding Official and the RIO.[72] The University may choose to have the RIO or another designated institutional official conduct the inquiry in lieu of a committee. Also, if needed, this individual may utilize one or more subject matter experts to assist them in the inquiry or investigation.[73]

Upon receiving an allegation of research misconduct, the RIO or another designated institutional official will acknowledge and, if appropriate, discuss the allegation with the complainant and then promptly assess the allegation to determine whether it (a) is within the definition of research misconduct under the PHS regulation as indicated under Definitions, above, (b) is within the applicability criteria of the regulation at § 93.102 as indicated under Scope and Responsibility, above and (c) is sufficiently credible

and specific so that potential evidence of research misconduct may be identified.[74] The RIO will then prepare a report to the Provost as the IDO, the Vice President for Research and Sponsored Programs, and the Office of General Counsel regarding whether the allegation warrants an inquiry based on the above assessment.

If the RIO, in consultation with the above institutional officials, determines that the requirements for an inquiry are met, the RIO shall promptly sequester all research records and other evidence per the PHS regulation, and promptly initiate the inquiry.[75] If the RIO or in consultation with the above institutional officials determines that requirements for an inquiry are not met, the RIO will keep sufficiently detailed documentation of the assessment to permit a later review by ORI of the reasons why CAU did not conduct an inquiry.[76] The University will keep this documentation and related records in a secure manner for seven years and provide them to ORI upon request.[77]

## Complainant

The complainant is the person or entity who in good faith makes an allegation of research misconduct.[78] The complainant brings research misconduct allegations directly to the attention of the RIO through any means of communication. The complainant may be identified by name or as an anonymous whistleblower. The complainant is also responsible for maintaining confidentiality by signing a non-disclosure agreement provided by the University and following its terms, and cooperating with an assessment, inquiry, or investigation.

The complainant will make allegations in good faith, as it is defined in the PHS regulation, as having a reasonable belief in the truth of one's allegation or testimony, based on the information known to the complainant at the time.[79]

## Respondent

The respondent is the individual against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.[80] The respondent is responsible for maintaining confidentiality by signing a non-disclosure agreement provided by the University and following its terms, and cooperating with an assessment, inquiry, or investigation.

The respondent has the burden of going forward with and proving, by a preponderance of evidence, affirmative defenses raised.[81]

The respondent will not be present during the witnesses' interviews but will be provided a transcript of the interview after it takes place with the draft inquiry or investigation report.[82] The respondent will have opportunities to (a) view and respond in writing to the draft and final inquiry reports within no more than thirty (30) days of receiving them, and (b) view and respond in writing to the draft and final investigation reports within no more than thirty (30) days of receiving them,.[83]

If the respondent, without admitting to the misconduct, elects to resign his or her position or student status after the University receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the

preceding steps. If the respondent refuses to participate in the process after resignation, the RIO, Provost (IDO), Vice President for Research and Sponsored Programs, and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the final report the respondent's failure to cooperate and its effect on the analysis of the evidence.

## Committee and Consortium Members

Committee members (and consortium members where applicable) are experts in the discipline related to the alleged research misconduct and generalists as defined in University policies and procedures who act in good faith to cooperate with the research misconduct proceedings by impartially carrying out their assigned duties for the purpose of helping CAU meet its responsibilities under 42 CFR Part 93 and outlined in this policy.[84] Committee and consortium members will have relevant scientific or academic expertise and be free of real or perceived conflicts of interest with any of the involved parties.[85] Committee members are responsible for maintaining confidentiality by signing a non-disclosure agreement provided by the University and following its terms, and cooperating with an inquiry or investigation.

Committee or consortium members or anyone acting on behalf of CAU will conduct research misconduct proceedings consistent with the PHS regulation. They will determine whether an investigation is warranted, documenting the decision in an inquiry report.[86] During an investigation, committee or consortium members review the evidence related to the research misconduct proceeding and participate in recorded interviews of 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(s).[87] They will also determine whether or not the respondent(s) engaged in research misconduct and document the decision in the investigation report.[88] They consider respondent and/or complainant comments on the inquiry/investigation report(s) and document that consideration in the investigation report.[89]

An investigation into multiple respondents may convene with the same investigation committee or consortium members or anyone acting on behalf of CAU, but there will be separate investigation reports and separate research misconduct determinations for each respondent.[90] Committee or consortium members may serve for more than one investigation, in cases with multiple respondents.[91] Committee members may also serve for both the inquiry and the investigation.

## Witnesses

Witnesses are people whom CAU has reasonably identified as having information regarding any relevant aspects of the investigation. Witnesses provide information for review during research misconduct proceedings. Witnesses will cooperate with the research misconduct proceedings in good faith and have a reasonable belief in the truth of their testimony, based on the information known to them at the time.[92] Witnesses are responsible for maintaining confidentiality by signing a non-disclosure agreement provided by the University and following its terms, and cooperating with an assessment, inquiry, or investigation.

## Institutional Deciding Official

The Institutional Deciding Official (IDO), who is the CAU Provost, makes the final determination of research misconduct findings at the conclusion of the inquiry and investigation.[93] The IDO cannot serve as the RIO.[94] The IDO documents the final determination in a written decision that includes whether research misconduct occurred, and if so, what kind and who committed it, and a description of the relevant actions CAU has taken or will take.[95] The IDO's written decision becomes part of the institutional record.[96]

# Procedures for Addressing Allegations of Research Misconduct

## Evidence

1. Standard of Proof. A finding of research misconduct must be proved by a preponderance of the evidence.

2. Burden of proof.

   a. The University has the burden of proof for making a finding of research misconduct. In determining whether the University has carried the burden of proof imposed by this policy, the finder of fact shall give due consideration to admissible, credible evidence of honest error or difference of opinion presented by the respondent. [97]

   b. The respondent has the burden of going forward with and proving, by a preponderance of the evidence, all affirmative defenses raised. The respondent also has the burden of going forward with and proving, by a preponderance of the evidence, any mitigating factors relevant to a decision to impose administrative actions after a research misconduct proceeding.

3. Destruction of the Research Record. A respondent's destruction of research records documenting the questioned research is evidence of research misconduct where the University establishes by a preponderance of the evidence that the respondent intentionally or knowingly destroyed records after being informed of the research misconduct allegations. A respondent's failure to provide research records documenting the questioned research is evidence of research misconduct where the respondent claims to possess the records but refuses to provide them upon request.[98]

4. Admissions. If a witness or respondent makes an admission related to research misconduct, the University will require that witness or respondent to sign a written statement specifying the affected research records and confirming the misconduct was falsification, fabrication, and/or plagiarism; committed intentionally, knowingly, or recklessly; and a significant departure from accepted practices of the relevant research community.[99] However, if the witness or respondent

does not sign such a statement, the RIO or inquiry or investigation committee may nevertheless consider the admission, particularly if it is documented in a written transcript or corroborated by other information, to be evidence on which it may rely in reaching its findings.

## Responsibility to Report Misconduct

All institutional members have significant responsibility to report observed, suspected, or apparent misconduct in research to the RIO or the alleged respondent's Dean, who should consult immediately with the RIO. If an institutional member is unsure whether a suspected incident falls within the definition of research misconduct, that member should consult with the RIO or the Vice President for Research and Sponsored Programs who may refer the institutional member to the Office of General Counsel for further assistance. An institutional member's failure to notify University authorities whenever it becomes obvious that research misconduct may have occurred may result in further proceedings under the University's Code of Ethical Conduct or other appropriate policies.

## Assessment

An assessment's purpose is to determine whether an allegation warrants an inquiry.[100] An assessment is intended to be a review of readily accessible information relevant to the allegation.[101] The assessment should be brief, preferably concluded in no more than thirty (30) days. The RIO conducts the assessment and may, but need not, interview the complainant or any witnesses or gather data beyond any that might have been submitted with the allegation, except as necessary to determine whether the allegations meet the requirements below. After this initial review of an allegation of research misconduct, the RIO or another designated institutional official will promptly determine whether the allegation (a) falls within the definition of research misconduct as indicated under Definitions, above, (b) is within the applicability criteria of 42 CFR Part 93 § 93.102 as indicated under Scope and Applicability, above, and (c) is credible and specific enough to identify and sequester potential evidence.[102] The RIO will then prepare a report to the Provost as the IDO, the Vice President for Research and Sponsored Programs, and the Office of General Counsel regarding whether the allegation warrants an inquiry based on the above assessment.

If the RIO in consultation with the above institutional officials determines that the allegation meets these three criteria, the RIO will promptly: (a) document the assessment and (b) initiate an inquiry and sequester all research records and other evidence.[103] The RIO or other institutional official must document the assessment and retain the assessment documentation securely for seven years after completion of the misconduct proceedings.[104] If the RIO in consultation with the above institutional officials determines that the alleged misconduct does not meet the criteria to proceed to an inquiry, the RIO will write sufficiently detailed documentation to permit a later review by ORI of why CAU did not proceed to an inquiry and securely retain this documentation for seven years.[105]

# Inquiry

An inquiry is warranted if the allegation (a) falls within the definition of research misconduct under 42 CFR Part 93 and the definition of Research Misconduct as indicated in the Definitions section, above, (b) is within the applicability criteria of § 93.102 as indicated under Scope and Applicability, above, and (c) is sufficiently credible and specific so that potential evidence of research misconduct may be identified.[106] An inquiry's purpose is to conduct an initial review of the evidence to determine whether an allegation warrants an investigation, not to reach a final conclusion about whether research misconduct definitely occurred or who was responsible.[107] An inquiry does not require a full review of all related evidence.[108] CAU will complete the inquiry within ninety (90) days of initiating it unless circumstances warrant a longer period, in which it will sufficiently document the reasons for exceeding the time limit in the inquiry report both to the University and to ORI.[109]

### Sequestering Evidence and Notifying the Respondent

Before or at the time of notifying the respondent(s), CAU will obtain the original or substantially equivalent copies of all research records and other evidence that are pertinent to the proceeding, inventory these materials, sequester the materials in a secure manner, and retain them for a minimum of seven years.[110] The University has a duty to obtain, inventory, and securely sequester evidence that extends to whenever additional items become known or relevant to the inquiry or investigation at any time during the proceeding.[111]

At the time of or before beginning the inquiry, the RIO will make a good-faith effort to notify the presumed respondent(s), in writing, that an allegation(s) of research misconduct has been raised against them, the relevant research records have been sequestered, and an inquiry will be conducted to decide whether to proceed with an investigation[112]The RIO should identify clearly the original allegation(s), any additional allegations arising out of the assessment process, and any related issues that will be considered during the inquiry. If additional allegations arise during the inquiry, the RIO will notify the respondent(s) in writing.[113] When appropriate, the University will give the respondent(s) copies of, or reasonable supervised access to, the sequestered materials.[114]

If additional respondents are identified during the inquiry, the RIO will provide written notification to the new respondent(s).[115] All additional respondents will be given the same rights and opportunities as the initial respondent.[116] Only allegations specific to a particular respondent will be included in the notification to that respondent.[117]

The RIO will also notify the respondent of the proposed committee membership prior to the inquiry committee beginning its work. The respondent may object to a proposed member based upon a personal, professional, or financial conflict of interest or bias.[118] The respondent must submit a written objection to any appointed member of the inquiry committee or expert within 10 days of notification by the RIO. The RIO, in consultation with the Vice President for Research and Sponsored Programs and Office of General Counsel, will determine whether a conflict or bias exists and, if so, nominate a replacement, if appropriate, for the challenged member who will be appointed by the Provost (IDO).

### Appointment and Convening of the Committee and Ensuring Neutrality

Members of the Responsible Conduct of Research Committee (also known as the Research Integrity Committee or "RIC") typically conduct the inquiry. The Committee will include the RIO and other members of the RIC nominated by the RIO in consultation with the Vice President for Research and Sponsored Programs and Office of General Counsel, and appointed by the Provost (IDO). The inquiry committee members will include scientists as well as other subject-matter experts and generalists drawn from the standing RIC or identified specifically for this case from inside or outside the University. Inquiry committee members may have faculty, administrative or other status. If the respondent is a student, one member of the inquiry committee may be a representative of student affairs.

Members of the inquiry committee will not have actual or apparent conflicts of interest in the case, will be unbiased, and will agree to evaluate the evidence and issues related to the allegation(s) and conduct the inquiry. CAU will ensure that all inquiry committee members understand their commission, keep the research records and the testimony and identities of respondents, complainants, and witnesses confidential, and conduct the research misconduct proceedings in compliance with the PHS regulation. Each committee member will confirm these commitments in writing using a form provided by the University.

In lieu of a committee, the institution may task the RIO or another designated institutional official to conduct the inquiry, provided this person utilizes subject matter experts as needed to assist in the inquiry.[119]

### Determining Whether an Investigation Is Warranted

The inquiry committee, RIO, or other designated institutional official will conduct a preliminary review of the evidence.[120] The RIO in consultation with the Office of General Counsel will prepare a charge for the inquiry committee that describes the allegations and any related issues identified during the assessment. That charge will state that the purpose of the inquiry is to make a preliminary evaluation of the evidence and, if appropriate, the testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence of possible research misconduct to warrant an investigation. The charge will also state that the committee is responsible for preparing an inquiry report and the timeline for completion of the inquiry. In the process of fact-finding, the inquiry committee may, but is not required, interview the respondent and/or witnesses.[121]

An investigation is warranted if (a) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct under 42 CFR Part 93, as indicated in the definition of Research Misconduct as indicated under the Definitions section above, above, and involves PHS-supported or other biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research or research training, as provided in § 93.102, as indicated under Scope and Applicability above; and (b) preliminary information-gathering and fact-finding from the inquiry indicates that the allegation may have substance.[122]

The inquiry committee will not determine if research misconduct occurred, nor assess whether the alleged misconduct was intentional, knowing, or reckless; such a determination is not made until the case proceeds to an investigation.[123]

## Documenting the Inquiry

At the conclusion of the inquiry, regardless of whether an investigation is warranted, the inquiry committee, RIO, or other designated institutional official will prepare a written inquiry report. The contents of a complete inquiry report will include:

1. The names, professional aliases, and positions of the respondent and complainant(s).
2. A description of the allegation(s) of research misconduct.
3. Details about the PHS funding, including any grant numbers, grant applications, contracts, and publications listing PHS support.
4. The composition of the inquiry committee, if used, including name(s), position(s), and subject matter expertise.
5. An inventory of sequestered research records and other evidence and description of how sequestration was conducted.
6. Transcripts of interviews, if transcribed.
7. Inquiry timeline and procedural history.
8. Any scientific or forensic analyses conducted.
9. The basis for recommending that the allegation(s) warrant an investigation.
10. The basis on which any allegation(s) do not merit further investigation.
11. Any comments on the inquiry report by the respondent or the complainant (s), and the University's response to those comments, which will indicate what revisions might have been made in the draft report as a result
12. Any institutional actions implemented, including internal communications or external communications with journals or funding agencies.[124]
13. Documentation of potential evidence of honest error or difference of opinion.[125]

## Completing the Inquiry

CAU will give the respondent a copy of the draft inquiry report for review.[126] The University may, but is not required to, provide relevant portions of the report to a complainant for review.[127] The respondent and, if applicable, the complainant have thirty (30) days to submit a written response commenting on the draft inquiry report. If not previously completed, the respondent and complainant will maintain confidentiality by signing a non-disclosure agreement provided by the University.

The RIO will transmit the final inquiry report with recommendations, the response of the respondent, and any comments to the Vice President for Research and Sponsored Programs and the Provost (IDO) who will make the determination of whether findings from the inquiry provide sufficient evidence of possible research misconduct to justify conducting an investigation. The inquiry is completed when the Provost (IDO) makes this determination, which will be made within ninety (90) calendar days of the first meeting of the inquiry committee unless an extension has been granted. The final inquiry report will have the date of the first meeting of the inquiry committee recorded in it. The Provost (IDO) will notify the respondent of the inquiry's final outcome and provide the respondent with copies of the final inquiry report, the PHS regulation, if applicable, and these policies and procedures.[128] The University may, but is not required to, notify a complainant whether the inquiry found that an investigation is warranted. [129] If

the University provides notice to one complainant in a case, it must provide notice, to the extent possible, to all complainants in the case.[130]

**If an Investigation Is Not Warranted:**

If the inquiry committee, RIO, or other designated institutional official determines that an investigation is not warranted, CAU will keep sufficiently detailed documentation to permit a later review by ORI of why the University did not proceed to an investigation, store these records in a secure manner for at least seven years after the termination of the inquiry, and provide them to ORI upon request. [131]

**If an Investigation is Warranted:**

If the inquiry committee, RIO, or the Provost (IDO) determines that an investigation is warranted, the Provost (IDO) must: (a) within thirty (30) days after this decision, provide written notice to the respondent(s) of the decision to conduct an investigation of the alleged misconduct, including any allegations of research misconduct not addressed during the inquiry, as noted under the section Completing the Inquiry, above;[132] and (b) within thirty (30) days of determining that an investigation is warranted, provide ORI with a copy of the inquiry report.[133]

On a case-by-case basis, CAU may choose to notify the complainant that there will be an investigation of the alleged misconduct but is required to take the same notification action for all complainants in cases where there is more than one complainant.[134]

## Investigation

The purpose of an investigation is to develop formally a factual record, pursue leads, examine the record, and recommend finding(s) to the IDO, who will make the final decision as to whether research misconduct occurred and by whom, based on a preponderance of evidence, in each allegation and determine any subsequent institutional actions, including but not limited to, retraction, discipline or other action.[135] As part of its investigation, the University will pursue diligently all significant issues and relevant leads, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion.[136] Within thirty (30) days after deciding an investigation is warranted, CAU will notify ORI of the decision to investigate and begin the investigation.[137]

**Notifying the Respondent and Sequestering Evidence**

CAU will notify the respondent(s) of the allegation(s) within thirty (30) days of determining that an investigation is warranted and before the investigation begins.[138] If any additional respondent(s) are identified during the investigation, the University will notify them of the allegation(s) and provide them an opportunity to respond consistent with the PHS regulation.[139] If the University identifies additional respondents during the investigation, it may choose to either conduct a separate inquiry/investigation or add the new respondent(s) to the ongoing investigation.[140] The University will notify the respondent(s) in writing of any additional allegations raised against them during the investigation.[141]

The RIO will notify the respondent of the proposed committee membership prior to the investigation committee beginning its work. The respondent may object to a proposed member based upon a

personal, professional, or financial conflict of interest or bias.[142] The respondent must submit a written objection to any appointed member of the investigation committee or expert within ten (10) days of notification by the RIO. The RIO, in consultation with the Vice President for Research and Sponsored Programs and Office of General Counsel, will determine whether a conflict or bias exists and, if so, nominate a replacement for the challenged member who will be appointed by the Provost (IDO).

The University will obtain the original or substantially equivalent copies of all research records and other evidence, inventory these materials, sequester them in a secure manner, and retain them for seven years after its proceeding or any HHS proceeding, whichever is later.[143]

### Appointing an Investigation Committee

Members of the Responsible Conduct of Research Committee (also known as the Research Integrity Committee or "RIC") typically conduct the investigation. The investigation committee will include the RIO and other members of the RIC nominated by the RIO in consultation with the Vice President of Research and Sponsored Programs and the Office of General Counsel, and appointed by the Provost (IDO). The University may, but is not required to, use the same committee members from the inquiry in the subsequent investigation. The inquiry committee members will include scientists as well as other subject-matter experts and generalists drawn from the standing RIC or identified specifically for this case from inside or outside the University. They may have faculty, administrative or other status. If the respondent is a student, one member of the investigation committee may be a representative of student affairs.

A representative of Compliance may be a member of the committee. The RIO may elect to chair the committee. Otherwise, the RIO may serve in an advisory capacity to the committee, and the committee in consultation with the RIO and Vice President of Research and Sponsored Programs will elect a chair from among its members. Except in extraordinary circumstances, all members of the committee are voting members.

Members of the investigation committee will not have actual or apparent conflicts of interest in the case, will be unbiased, and will evaluate the evidence and issues related to the allegation(s) and conduct the investigation. CAU will ensure that all investigation committee members understand their commission, keep the research records, testimony and identities of respondents, complainants, and witnesses confidential, and conduct the research misconduct proceedings in compliance with the PHS regulation. Each committee member will confirm these commitments in writing using a form provided by the University.

### Convening the Investigation Committee

After vetting investigation committee members for conflicts of interest and appropriate scientific expertise, CAU will convene the committee and ensure that the members understand their responsibilities in conducting the research misconduct proceedings.[144] The RIO in consultation with the Office of General Counsel will prepare a charge for the investigation committee that describes the allegations and any related issues identified during the inquiry. That charge will state that the purpose of the investigation is to evaluate the evidence including the testimony of the respondent, complainant, and

key witnesses to determine whether there is sufficient evidence to justify a finding of research misconduct. The charge will also state that the committee is responsible for preparing an investigation report and the timeline for completion of the investigation. The investigation committee will conduct interviews, pursue leads, and examine all research records and other evidence relevant to reaching a decision on the merits of the allegation(s).[145] The University will use diligent efforts to ensure that the investigation is thorough, sufficiently documented, and impartial and unbiased to the maximum extent practicable.[146]

### Conducting Interviews

The investigation committee or a subcommittee thereof will interview each respondent, complainant(s), 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.[147] The University will number all relevant exhibits and refer to any exhibits shown to the interviewee during the interview by that number.[148] The University will record and transcribe interviews during the investigation and make the transcripts available to the interviewee for notation of errata.[149] The University will include with the transcript(s) any errata addenda and exhibits in the institutional record of the investigation.[150] The respondent will not be present during the witnesses' interviews, but the University will provide the respondent with a transcript of each interview with the draft investigation report, with redactions as appropriate to maintain the confidentiality of that report.[151]

### Expansion of the Investigation

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would involve additional individuals as respondents, the committee must consider recommending to the RIO an expansion of the investigation. The RIO will notify the Provost (IDO) and Vice President of Research and Sponsored Programs of the committee's recommendation and seek their approval, notify the respondent of the new subject matter, or provide notice to additional respondents of their inclusion in the investigation.

### Documenting the Investigation

CAU will complete all aspects of the investigation within 180 days.[152] CAU will conduct the investigation, prepare the draft investigation report for each respondent, and provide the opportunity for respondents to comment.[153] The University will document the Provost's (IDO) final decision and transmit the institutional record (including the final investigation report and IDO's decision) to ORI.[154] If the investigation takes more than 180 days to complete, the University will ask ORI in writing for an extension and document the reasons for exceeding the 180-day period in the investigation report.[155]

The investigation report for each respondent will include:

1. Description of the nature of the allegation(s) of research misconduct, including any additional allegation(s) addressed during the research misconduct proceeding.
2. Description and documentation of the PHS support, including any grant numbers, grant applications, contracts, and publications listing PHS support. This documentation includes known

applications or proposals for support that the respondent has pending with PHS and non-PHS Federal agencies.

3. Description of the specific allegation(s) of research misconduct for consideration in the investigation of the respondent.
4. Composition of investigation committee, including name(s), position(s), and subject matter expertise.
5. Inventory of sequestered research records and other evidence, except records the institution did not consider or rely on.[156] This inventory will include manuscripts and funding proposals that were considered or relied on during the investigation. The inventory will also include a description of how any sequestration was conducted during the investigation.
6. Transcripts of all interviews conducted.
7. Identification of the specific published papers, manuscripts submitted but not accepted for publication (including online publication), PHS funding applications, progress reports, presentations, posters, or other research records that contain the allegedly falsified, fabricated, or plagiarized material.
8. Any scientific or forensic analyses conducted.
9. A copy of these policies and procedures.
10. Any comments made by the respondent and complainant(s) on the draft investigation report and the committee's consideration of those comments.
11. A statement for each separate allegation of whether the committee recommends a finding of research misconduct.[157]

If the committee recommends a finding of research misconduct for an allegation, the investigation report will present a rationale for each finding for each allegation. These findings will (a) identify the individual(s) who committed the research misconduct; (b) indicate whether the misconduct was falsification, fabrication, and/or plagiarism; (c) indicate whether the misconduct was committed intentionally, knowingly, or recklessly; (d) identify any significant departure from the accepted practices of the relevant research community and that the allegation was proven by a preponderance of the evidence; (e) summarize the facts and analysis supporting the conclusion and consider the merits of any explanation by the respondent; (f) identify the specific PHS support; and (g) state whether any publications need correction or retraction.[158]

If the investigation committee does *not* recommend a finding of research misconduct for an allegation, the investigation report will provide a detailed rationale for its conclusion.[159]

The investigation committee should also provide a list of any current support or known applications or proposals for support that the respondent has pending with PHS and non-PHS Federal agencies.[160]

### Completing the Investigation

CAU will give the respondent a copy of the draft investigation report and, concurrently, a copy of, or supervised access to, the research records and other evidence that the investigation committee considered or relied on.[161] The respondent will submit any comments on the draft report to the University within thirty (30) days of receiving the draft investigation report.[162] If CAU chooses to

share a copy of the draft investigation report or relevant portions of it with the complainant(s) for comment, the complainant's comments will be submitted within thirty (30) days of the date on which they received the report.[163] The draft investigation report will be subject to the same non-disclosure requirements as the draft inquiry report. If not previously completed, the respondent and complainant will maintain confidentiality by signing a non-disclosure agreement provided by the University. The investigation committee will take any comments from the complainant or respondent under advisement and add any comments received to the investigation report.[164]

### IDO Review of the Investigation Report

The RIO will transmit the updated draft investigation report to the Vice President of Research and Sponsored Programs and the Provost (IDO). The Provost (IDO) will make the final determination in writing: (1) whether the University accepts the investigation report and its findings of research misconduct; and (2) the appropriate University actions to be taken in response to the accepted findings and conclusions of research misconduct.

Alternatively, the Provost (IDO) may return the report to the investigation committee with a request for further fact-finding or analysis. The Provost will specify a deadline for this information not to exceed thirty (30) days.[165] In determining whether to ask the investigation committee for additional fact-finding or analysis, the Provost (IDO) shall consider the following factors: 1) whether the investigation committee followed the University's policies and procedures related to research misconduct; 2) whether all findings of research misconduct are supported by evidence in the research record; 3) whether the investigation committee has addressed each allegation with findings of fact, analysis and a conclusion; and 4) whether there is any indication that the investigation committee's process or findings otherwise appear to be arbitrary and capricious.

The Provost (IDO) will notify both the respondent and the complainant in writing of the final determination regarding research misconduct and who is responsible. The Provost's (IDO) written determination, together with the investigation committee's report(s), will be transmitted to each respondent. The complainant will receive a written summary of the findings and the decision that may include relevant sections of the final investigation report. Once the Provost (IDO) has issued the final investigation report, that report and its findings are final and are not subject to further review by or appeal to the University.

### Administrative Actions Related to Findings of Research Misconduct

The Provost (IDO), in consultation with the Office of General Counsel, the RIO, and the Vice President for Research and Sponsored Programs will determine: 1 ) what administrative actions the University should take as a result of the findings in the research misconduct case, which might include retractions, withdrawal from the public domain or correction of all pending or published abstracts, articles, dissertations, or theses related to the research misconduct; 2) disciplinary action, which may include removal of the responsible person from the project, letter of reprimand, special monitoring of future work, demotion, probation, suspension, salary reduction or initiation of other employee or student disciplinary procedures; and 3) all necessary notifications to law enforcement agencies, professional societies, professional licensing boards, funding or sponsoring organizations of the research, editors of

journals in which falsified, fabricated, plagiarized or fraudulent data or reports may have been published, collaborators of the respondent in the work, or other relevant parties. Such notifications may also extend to other institutions of higher education or corporations sponsoring grants or projects, or proposals thereof, that appear to rely on the falsified, fabricated, plagiarized, or fraudulent data.

The RIO and the Vice President for Research and Sponsored Programs are responsible for ensuring compliance with all notification requirements to funding or sponsoring entities; working to retract or correct journal articles, dissertations, or other documents; and assisting other University offices as appropriate related to any disciplinary action. While the University must make its best effort to remedy the fabrication, falsification, plagiarism, or other research misconduct issues identified in the investigation, some remediation may be outside of its authority to effect successfully.

### Creating and Transmitting the Institutional Record

After the Provost (IDO) has made a final determination of research misconduct findings, the RIO will add the IDO's written decision to the investigation report and organize the institutional record in a logical manner.[166]

The institutional record consists of the records that were compiled or generated during the research misconduct proceeding, except records the University did not rely on.[167] These records include documentation of the assessment, a single index listing all research records and evidence, the inquiry report and investigation report, and all records considered or relied on during the investigation.[168] The institutional record also includes the IDO's final decision and any information the respondent provided to the University.[169] The institutional record must also include a general description of the records that were sequestered but not considered or relied on.[170]

## Other Procedures and Special Circumstances

### Multiple Institutions and Multiple Respondents

If the alleged research misconduct involves multiple institutions, CAU may work closely with the other affected institutions to determine whether a joint research misconduct proceeding will be conducted.[171] If so, the cooperating institutions will choose an institution to serve as the lead institution. In a joint research misconduct proceeding, the lead institution will obtain research records and other evidence pertinent to the proceeding, including witness testimony, from the other relevant institutions.[172] By mutual agreement, the joint research misconduct proceeding may include committee members from the institutions involved.[173] The determination of whether further inquiry and/or investigation is warranted, whether research misconduct occurred, and the institutional actions to be taken may be made by the institutions jointly or tasked to the lead institution.[174]

If the alleged research misconduct involves multiple respondents, CAU may either conduct a separate inquiry for each new respondent or add them to the ongoing proceedings.[175] The University must give additional respondent(s) notice of and an opportunity to respond to the allegations.[176]

### Respondent Admissions

CAU will promptly notify ORI in advance if at any point during the proceedings (including the assessment, inquiry, investigation, or appeal stage) it plans to close a research misconduct case because the respondent has admitted to committing research misconduct or a settlement with the respondent has been reached.[177] If the respondent admits to research misconduct, the University will not close the case until providing ORI with the respondent's signed, written admission, if possible. [178] The admission, where obtainable, states the specific fabrication, falsification, or plagiarism that occurred, which research records were affected, and that it constituted a significant departure from accepted practices of the relevant research community.[179] (See also the section on Evidence, above, 4. Admissions.) The University must not close the case until giving ORI a written statement confirming the respondent's culpability and explaining how the University determined that the respondent's admission . where provided, fully addresses the scope of the misconduct.[180]

### Premature Closing of Cases

Generally, all inquiries and investigations will be carried through to completion, and all significant issues and credible allegations will be pursued diligently. The RIO and Vice President for Research and Sponsored Programs must notify ORI in advance if there are plans to close a case at the assessment, inquiry or investigation stage for the following reasons: 1) closing of a case at the assessment or inquiry stage on the basis that an investigation is not warranted; or 2) a finding of no misconduct at the investigation stage, which must be reported to ORI or other entities, as prescribed in this policy and 42 CFR §93.316. The Provost (IDO) has the authority to end an inquiry or investigation at any time if the committee fails to make progress or there are other issues that appear to limit the progress of the committee.[181] The Provost (IDO) will determine the next steps, which will typically include reconstructing the committee with new members to complete the inquiry or investigation. The RIO will provide ORI with a report of any interruption of an investigation.

### Other Special Circumstances

At any time during the misconduct proceedings, CAU will immediately notify ORI if any of the following circumstances arise:

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 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. HHS may need to take appropriate steps to safeguard evidence and protect the rights of those involved.[182]

## Records Retention

CAU will maintain the institutional record and all sequestered evidence, including physical objects (regardless of whether the evidence is part of the institutional record), in a secure manner for seven

years after the completion of the proceeding or the completion of any HHS proceeding, whichever is later, unless custody has been transferred to HHS.[183]

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[1] Throughout these sample Policies and Procedures, ORI has made use of extensive endnotes citing to the regulations at 42 CFR Part 93 in order to serve as a reference to Institutions, and to enable them to see the regulatory language behind this sample document. Institutions may choose, but are not required, to replicate this approach in their own documents.
[2] 42 CFR Part 93 § 93.300(c).
[3] § 93.100.
[4] § 93.300(a).
[5] § 93.102(b)(1).
[6] § 93.102(b)(2).
[7] § 93.102(b)(3).
[8] § 93.102(b)(4).
[9] § 93.102(b)(5).
[10] § 93.102(b)(6).
[11] § 93.104(a).
[12] § 93.104(b)(1).
[13] §§ 93.104(b)(1) and 93.318.
[14] § 93.104(b)(2).
[15] § 93.102(c).
[16] § 93.200.
[17] § 93.202.
[18] § 93.203.
[19] § 93.204.
[20] § 93.206.
[21] § 93.305f)
[22] § 93.210.
[23] § 93.211.
[24] § 93.212.
[25] § 93.214.
[26] § 93.215.
[27] § 93.216.
[28] § 93.218.
[29] § 93.219.
[30] § 93.220.
[31] § 93.221.
[32] § 93.222.
[33] § 93.223.
[34] § 93.227.
[35] § 93.228.
[36] § 93.230.
[37] § 93.231.
[38] § 93.233.
[39] § 93.235.
[40] § 93.236.
[41] § 93.237.

[42] § 93.238.
[43] § 93.241.
[44] § 93.300(f).
[45] §§ 93.106(a) and 93.302(a)(4)(ii).
[46] § 93.106(a)
[47] § 93.300(g-h).
[48] § 93.106(c).
[49] § 93.106(b). Applicable to all confidentiality requirements in this section.
[50] § 93.305.
[51] §§ 93.317 and 93.220.
[52] § 93.318.
[53] § 93.318(b).
[54] § 93.305(g).
[55] § 93.106(a).
[56] §§ 93.300(b) and 93.305(f)(1).
[57] § 93.300(d).
[58] § 93.308(b).
[59] § 93.307(f).
[60] § 93.305(b).
[61] § 93.305(b).
[62] §§ 93.308(a) and 93.307(g).
[63] §§ 93.310(c) and 93.310(g)(5).
[64] § 93.312.

[67] §§ 93.105 and 93.304(c).
[68] §§ 93.305(f) and 93.300(d).
[69] § 93.305(f).
[70] § 93.300(d).
[71] § 93.233.
[72] § 93.218.
[73] § 93.307(e)(2).
[74] § 93.306(b).
[75] § 93.306(c).
[76] § 93.306(c)(3).
[77] § 93.318.
[78] § 93.206.
[79] § 93.214.
[80] § 93.237.
[81] §§ 93.105(b)(2) and 93.105(b)(3).
[82] § 93.310(g)(5).
[83] §§ 93.307(g)(3) and 93.312.
[84] § 93.214(b).
[85] § 93.305(f).
[86] § 93.307.
[87] § 93.310(g).
[88] § 93.313.

[89] § 93.313(j).
[90] § 93.310(c)(3).
[91] § 93.305(d).
[92] § 93.214(a).
[93] § 93.218.
[94] § 93.218.
[95] § 93.314.
[96] § 93.220(a)(4).

[98] § 93.105(b).
[99] §§ 93.103 and 93.317(b).
[100] § 93.306(a).
[101] § 93.204.
[102] § 93.306(b-c).
[103] §§ 93.306(b) and 93.306(c).
[104] §§ 93.306(c)(2) and 93.318.
[105] §§ 93.306(c)(3) and 93.318.
[106] § 93.307(a)(1-3).
[107] § 93.307(b).
[108] Id.
[109] § 93.307(h).
[110] §§ 93.305(a) and 93.318.
[111] §§ 93.305(a)(2) and 93.318.
[112] § 93.307(c).
[113] § 93.307(c).
[114] § 93.305(b).
[115] § 93.305(d).
[116] Id.
[117] § 93.307(c).
[118] § 93.305(f)
[119] § 93.307(e)(2).
[120] § 93.307(b).
[121] § 93.307(e)(3).
[122] § 93.307(f)(i-ii).
[123] § 93.307(f)(ii)(2).
[124] § 93.309(a)(1-12).
[125] § 93.307(g)(2).
[126] § 93.307g(3).
[127] § 93.308(b).
[128] § 93.308(a).
[129] § 93.308(b).
[130] Id.
[131] § 93.309(c).
[132] § 93.308(a).
[133] § 93.309(a).
[134] § 93.308(b).
[135] §§ 93.310 and 93.314.

[136] § 93.310(j).
[137] § 93.310(a-b).
[138] § 93.310(a-c).
[139] § 93.310(c)(2).
[140] §§ 93.310(c)(2) and 93.310(c)(3).
[141] § 93.310(c)(1).
[142] § 93.305(f)
[143] § 93.318.
[144] § 93.310(f).
[145] § 93.310.
[146] § 93.310(f).
[147] § 93.310(g).
[148] § 93.310(g)(2).
[149] §§ 93.310(g)(1) and 93.310(g)(3).
[150] § 93.310(g)(4).
[151] §§ 93.106, 93.300(d), and 93.310(g)(5). Institutions must, to the extent possible, provide confidentiality to respondents, complainants, and witnesses and protect complainants, witnesses, and committee members from retaliation. It is up to institutions to determine how to do so in practical terms (e.g., by redacting transcripts).
[152] § 93.311(a).
[153] § 93.312.
[154] § 93.316.
[155] § 93.311(b).
[156] § 93.313(e).
[157] § 93.313(a-k).
[158] § 93.313(k)(1)(i-vii).
[159] § 93.313(k)(2).
[160] § 93.313(k)(3).
[161] § 93.312(a).
[162] Id.
[163] § 93.312(b).
[164] § 93.313(j).
[165] § 93.314(a).
[166] §§ 93.220(a)(4) and 93.316.
[167] § 93.220.
[168] §§ 93.220(a)(1-3) and 93.220(b).
[169] § 93.220(a)(3-4).
[170] § 93.220(c).
[171] § 93.305(e).
[172] Id.
[173] Id.
[174] Id.
[175] § 93.305(d).
[176] Id.
[177] § 93.317(a).
[178] § 93.317(b).
[179] §§ 93.103 and 93.317(b).
[180] § 93.317(b).

[181] § 93.317
[182] § 93.305(g)(1-6).
[183] § 93.318.