

**PROCEDURES FOR DEALING WITH CHARGES OF MISCONDUCT
IN RESEARCH AND SCHOLARLY ACTIVITIES AT THE
UNIVERSITY OF MASSACHUSETTS AMHERST^{1*}**

I. PURPOSE OF PROCEDURES

Misconduct in research and scholarly activities is injurious to the University's teaching, research, and public service missions, and cannot be tolerated. This document provides procedures for the investigation of allegations of misconduct in research and scholarly activities. It is written to comply with federal regulations requiring such procedures and also to maintain and enhance the integrity of research. These procedures do not apply to authorship or collaboration disputes and apply only to allegations of research misconduct that occurred within six years of the date the University received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR § 93.105(b)

II. DEFINITIONS

- **Scholarly Activity**

Scholarly activity is to be broadly construed to include all activities of University personnel on official duty involving research, scholarship and creative activities, such as those involved in laboratory research, field work, observational studies, experimentation, research and scholarship in the humanities and artistic expression.

- **Scholarly and Research Misconduct**

Misconduct in research and scholarly activities, or research misconduct, means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, performing, or reviewing research, or in reporting research results. It does not include honest errors in the recording, selection, or analysis of data or honest differences in interpretations or judgments of data.

Research and scholarly misconduct involves misrepresentation of the procedures and outcomes of research to gain some advantage. Misconduct may often be difficult to separate from error or poor judgment, from which it is distinguished by the intentions of the person(s) involved.

Although there is no definitive and exhaustive list of examples, those outlined below may serve as guides in identifying scholarly and research misconduct.

1. Falsification or fabrication: This includes falsification, modification, or fabrication of data or facts, or selective inclusion or exclusion designed to

¹ * These procedures implement the Board of Trustees' Policy T08-010 Policy on Responsible Conduct of Research and Scholarly Activities and were approved by the Office of the President on November 10, 2009. These procedures conform to the procedures adopted by the Faculty Senate and Research Council, as modified to incorporate changes mandated by the applicable Federal regulations and the Office of Research Integrity of the Federal Department of Health and Human Services. Additional edits were made in December 2023 to address new changes mandated by HHS.

- mislead or to support false conclusions.
2. Plagiarism: This form of misconduct consists of any attempt to receive credit for the work of another, including taking credit for someone else's work, ideas, or methods, copying the writing of others without proper acknowledgment, or otherwise taking credit falsely.
 3. Abuse of confidentiality: This includes the use or release of information given to one under the understanding of confidentiality. Examples include taking ideas from documents to which access was given, under rules of confidentiality, such as in the reviewing of grant proposals, award applications, manuscripts submitted for publication, scholarly prizes or journals.
 4. Violations of rules and regulations concerning the conduct of research: Examples include violations of federal, state or local governmental regulations, or University regulations dealing with protection of human subjects, use of dangerous or hazardous substances, improper use of recombinant DNA, and mishandling of radioactive materials.
 5. Misrepresentations in publication: This form of misconduct involves the publishing or public circulation of material intended to mislead the reader. Examples include misrepresenting data (particularly its origins) or adding or deleting the names of other authors without the latter's consent.
 6. Violations of research-related property rights: Examples include the deliberate taking or destroying the research related property of others, such as data, research papers, notebooks, equipment, or supplies.

III. TIMELINESS

Timeliness in investigating a complaint is essential for just and fair procedures. In the interest of the parties concerned, all matters should be handled as expeditiously as possible. Deadlines cited in this document are intended to serve as outside limits for actions to occur. All persons charged with administering this process will endeavor to meet all deadlines, but failure to do so will not prevent the process from continuing. The complainant or the respondent must demonstrate to the Chair of the Scholarly and Research Misconduct Board some prejudice stemming from a delay before this process will be stopped.

A complainant will have sixty days following the discovery of an alleged violation to file a complaint unless he or she can show good reason (as determined by the Chair of the Scholarly and Research Misconduct Board) for having that deadline waived.

If a respondent fails to answer a charge or to participate in a hearing, his or her Vice Chancellor will be notified of that fact by the Vice Chancellor for Research and Engagement. Failure to respond to a charge or to appear at a hearing will be considered a breach of an employee's or graduate student's responsibility. Furthermore, a respondent will not prevent this process from proceeding by his or her silence or absence. Failure to respond may result in the hearing proceeding solely on the basis of the complainant's testimony and evidence.

A complainant may withdraw a charge after it has been filed, provided the respondent agrees to the withdrawal.

IV. RETALIATION

No individual will be penalized by the University or by any person for participating in the procedures described here. Any act of retaliation directed against either a complainant or a respondent will be subject to this grievance procedure. Complaints of retaliation should be

addressed to the Vice Chancellor for Research and Engagement who will advise the grieving party of his or her rights in this matter. Any act of retaliation shall be treated as an additional allegation of misconduct subject to these procedures.

V. PROCEDURES

The office of the Vice Chancellor for Research and Engagement will be responsible for administering these procedures. A University Research and Scholarly Misconduct Board, consisting of each and every college Dean, and two members from each college nominated by the college Deans and appointed by the Vice Chancellor for Research and Engagement, shall constitute the University body for interpreting misconduct policies and procedures and for recommending policy or procedural changes to the Faculty Senate and Research Council. The Vice Chancellor for Research and Engagement shall chair the Research and Scholarly Misconduct Board.

It is the responsibility of all members of the University community to inform the University when a situation involving possible misconduct is encountered. Such circumstances involving possible misconduct in research and scholarly activities should normally be referred to the appropriate Dean or the Vice Chancellor for Research and Engagement. Any other person associated with the institution receiving a report or formal complaint alleging misconduct in research and scholarly activities shall forward it on a timely basis to the appropriate Dean or the Vice Chancellor for Research and Engagement. It is not necessary that someone filing a complaint be directly affected negatively by the action in question; it is sufficient that the complainant believe that the rules concerning misconduct have been violated. The Dean shall promptly inform the Vice Chancellor for Research and Engagement of all reports or formal complaints alleging misconduct in research and scholarly activities.

The Vice Chancellor for Research and Engagement will immediately determine whether a federal or state misconduct policy applies and, if it does, conform also to its requirements. Such policies may require immediate steps or notifications, or other later steps as the various procedures are followed. Examples of reasons for timely action include: an immediate health hazard, an immediate need to protect the federal or state sponsor's funds or equipment, an immediate need to protect the interests of the complainant or respondent(s) or associates, high probability that the alleged incident will be reported publicly, reasonable indication of a possible criminal violation. Some situations may require immediate action(s) by University authorized persons, which may include certain notifications of relevant external sponsoring agencies.

When U.S. Department of Health and Human Services (HHS) support or applications for support are involved, then the Vice Chancellor for Research and Engagement must notify the HHS Office of Research Integrity (ORI) immediately if at any stage of these proceedings: (a) the health or safety of the public is at risk, including an immediate need to protect human or animal subjects; (b) HHS resources or interests are threatened; (c) research activities should be suspended; (d) there is reasonable indication of possible violations of civil or criminal law; (e) Federal action is required to protect the interests of those involved in the research misconduct proceeding; (f) 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 the rights of those involved; or (g) the research community or public should be informed.

Either before or when the Vice Chancellor for Research and Engagement notifies the respondent of the allegation, inquiry or investigation, the Vice Chancellor for Research and Engagement shall take interim administrative actions, as necessary and appropriate, to protect any research records, until all proceedings relating to the alleged misconduct are complete. In particular, the

Vice Chancellor for Research and Engagement shall take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner. Where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. However, where appropriate, the respondent(s) shall be given copies of, or reasonable, supervised access to the research records.

The Vice Chancellor for Research and Engagement will take interim administrative actions, as appropriate, to protect Federal funds and ensure that the purposes of the Federal financial assistance are carried out.

These procedures, once initiated, must be completed. In many cases, where a state or federal misconduct policy applies, these procedures are often seen as being followed on behalf of the sponsor. In such cases, timely and periodic consultation with the sponsor may be required. Sponsors will likely not permit their rights to conduct an inquiry or hearing to be reduced or forfeited by allowing the University to proceed on its behalf. If at any time before these research misconduct procedures have been completed, the Vice Chancellor for Research and Engagement wishes to cease the proceedings, the reasons must be stated in writing, and provided to relevant sponsor(s). When HHS support or applications for support are involved, then the Vice Chancellor for Research and Engagement will inform the ORI in writing of the reasons for ceasing. It is possible that a sponsor will insist on continuation (as supported by applicable law), or insist on conducting its own process (as supported by applicable law).

These procedures are intended to provide a fair, prompt and reliable determination whether misconduct has occurred, as described by the University's Policy on Responsible Conduct of Research and Scholarly Activities (BOT T08-010). No one associated with the University is exempt from the jurisdiction of these procedures. All those who are involved with any of these proceedings shall protect the privacy of the complainant and the privacy of the respondent(s) to the maximum extent possible. Individuals responsible for carrying out any part of the research misconduct proceedings will not have unresolved personal, professional, or financial conflicts of interest with the complainant, respondent, or witnesses. In addition, confidentiality shall be maintained for any research records or evidence from which research subjects might be identified.

As in any grievance procedure, justice requires that the legal rights as well as the right to academic freedom of any complainant, and the person who has allegedly violated the misconduct rules, the respondent, be fully assured. The University will make every effort to protect these rights and will undertake to prevent any action that threatens or compromises them.

The Office of the Vice Chancellor for Research and Engagement will maintain general information on the subject of misconduct in research and scholarly activities and make this information available to faculty, students, administrators and other employees of the University. Informal requests for information or consultation with the Office of the Vice Chancellor for Research and Engagement or with other University entity (e.g. Office of Grants and Contracts, Office of Research Affairs, Ombuds' Office, etc.) and departments will not, in themselves, be construed as an allegation of misconduct in research and scholarly activities which invokes these procedures.

- **Preliminary Review**

When a report or formal complaint alleging possible misconduct in research and scholarly

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activities is received by the Vice Chancellor for Research and Engagement, he or she will appoint a designee(s) to conduct a PRELIMINARY REVIEW. Normally the designee will be the Dean of the relevant college, but in situations of real, apparent, or potential conflict of interest, some other appropriate person(s) of comparable rank without any such conflict shall be appointed.

The designee will conduct a PRELIMINARY REVIEW of the information or circumstances giving rise to a suspicion of misconduct in research and scholarly activities. The designee is directed to inform the person(s) alleged to have committed the act(s) of misconduct (the respondent) and, if the respondent(s) so desire, receive account(s) of the situation under inquiry from their/his/her point of view. The designee may consult informally, on a confidential basis, with the chairperson of the department involved and with others in the university community in carrying out the PRELIMINARY REVIEW. Immediate action should be taken to protect any data or other materials involved, including obtaining secure possession of such materials.

The purpose of the PRELIMINARY REVIEW is to ascertain whether or not there is sufficient substance to the allegation of misconduct to proceed with additional investigation.

The PRELIMINARY REVIEW should be completed by the designee within seven days of the receipt of the allegation or other information. Any need for additional time must be documented in writing.

The designee shall make a written recommendation to the Vice Chancellor for Research and Engagement with copies to the respondent, and to any complainant. The recommendation shall specify either that the allegation or other information is without substance and the matter should be closed or that there is sufficient substance to the claims of misconduct to warrant further review. The respondent(s) may comment in writing on the written recommendation, which comment will be attached and subsequently included thereafter with the written recommendation.

The Vice Chancellor for Research and Engagement shall review the recommendation of the PRELIMINARY REVIEW designee and decide whether to proceed to the next level of review.

If the decision is consistent with the PRELIMINARY REVIEW recommendation and is to proceed, the Vice Chancellor for Research and Engagement shall bring the matter before the University Research and Scholarly Misconduct Board. If the decision is consistent with the PRELIMINARY REVIEW recommendation and is not to proceed, the matter will be closed, unless any complainant wishes to appeal the decision to the Provost. Upon appeal, the Provost shall review the record and make the final decision on whether to proceed. If the decision is to proceed, the Vice Chancellor for Research and Engagement shall bring the matter before the University Research and Scholarly Misconduct Board.

If the Vice Chancellor's decision is contrary to the recommendation of the PRELIMINARY REVIEW designee, the designee can appeal to the Provost. The Provost shall review the record and make the final decision on whether to proceed. If the decision is to proceed, the Vice Chancellor for Research and Engagement shall bring the matter before the University Research and Scholarly Misconduct Board.

- **Committee of Inquiry**

Except in those cases which are revealed by the PRELIMINARY REVIEW to be clearly without substance, the University Research and Scholarly Misconduct Board, chaired by the Vice Chancellor for Research and Engagement, will appoint a COMMITTEE OF INQUIRY consisting of the designee of PRELIMINARY REVIEW, serving as Chair, at least three members of the Board, and experts selected from disciplines appropriate to the nature of the particular situation.

Ordinarily the COMMITTEE OF INQUIRY shall consist of no more than eight persons. . The COMMITTEE of INQUIRY will consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with the complainant, respondent, or witnesses and includes individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. Respondent(s) will be informed that an inquiry is being conducted. Each party to the proceeding will have the right to object to the appointment of any proposed COMMITTEE of INQUIRY member based upon a personal, professional, or financial conflict of interest. The Vice Chancellor for Research and Engagement will make the final determination of whether a conflict exists.

1. The COMMITTEE OF INQUIRY will consult with and hear from the respondents and other affected individual(s), gather information, conduct preliminary fact finding, and determine whether there are reasonable and adequate grounds to warrant an investigation of misconduct in research and scholarly activities. The members of the Committee of Inquiry will act at all times to preserve the confidentiality of the inquiries made and the information gathered.
2. The chair will prepare a written report that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of research misconduct; (3) the PHS support, if any, including, for example, grant numbers, grant applications, contracts and publications listing PHS support; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent or complainant.
3. The chair will transmit the written report to the Vice Chancellor for Research and Engagement for action and to the respondent(s) and other individuals who are directly affected, including any complainant. The written report should be transmitted within thirty calendar days of the appointment of the committee (providing thirty days total for the committee of inquiry to conduct its inquiry and to issue its final report). Any need for additional time must be documented in writing. The respondent(s) may comment in writing on the written report, which comment will be attached and subsequently included thereafter with the written recommendation. The report, with any attachments, will be retained for at least seven years. When HHS support or applications for support are involved, then the report will be made available to authorized HHS personnel upon request.
4. The Vice Chancellor for Research and Engagement shall review the recommendation of the COMMITTEE OF INQUIRY and decide whether to proceed to an investigation of misconduct in research and scholarly activities.

If the Vice Chancellor's decision is consistent with the COMMITTEE OF INQUIRY recommendation and is to proceed, the Vice Chancellor shall bring the matter to the University Research and Scholarly Misconduct Board.

If the Vice Chancellor's decision is consistent with the COMMITTEE OF INQUIRY recommendation and is not to proceed, the matter will be closed, unless any complainant wishes to appeal the decision to the Provost. In closing the matter, the Vice Chancellor may at his/her discretion, or in accordance with recommendation of the COMMITTEE OF INQUIRY, issue a letter of advice to respondent(s), with copies to those in the academic chain of command of respondent(s). Upon appeal, the Provost shall review the record and make the final decision on whether to proceed. If the decision is to proceed, the Vice Chancellor for Research and Engagement shall bring the matter to the University Research and Scholarly Misconduct Board.

If the Vice Chancellor's decision is contrary to the recommendation of the COMMITTEE OF INQUIRY the Chair of the Committee of Inquiry can appeal to the Provost. The Provost shall review the record and make the final decision on whether to proceed. If the decision is to proceed, the Vice Chancellor for Research and Engagement shall bring the matter before the University Research and Scholarly Misconduct Board.

After the final decision to proceed with an investigation is made, the Vice Chancellor for Research and Engagement shall notify granting or contracting agencies or entities of the complaint, as required under existing federal and state regulations and as may be required by the grant or contract condition. In addition, the Vice Chancellor for Research and Engagement shall continue to ensure that relevant documents are held securely. When HHS support or applications for support are involved, then the Vice Chancellor for Research and Engagement will inform ORI no later than on or before the date on which the investigation begins of the decision to proceed with an investigation.

If the final decision is not to proceed, the Vice Chancellor for Research and Engagement shall undertake diligent efforts, as appropriate, to restore the reputations of respondent(s) and to restore the reputation of every complainant who has in good faith made allegations of misconduct.

- **Hearing Panels of the University Research and Scholarly Misconduct Board**

Within ten days of receiving the formal recommendation from a COMMITTEE OF INQUIRY and if there is a decision to proceed, the Vice Chancellor for Research and Engagement will appoint a HEARING PANEL.

The HEARING PANEL shall consist of five members of the University Research and Scholarly Misconduct Board, and additional members up to a maximum of ten. At least two members of the HEARING PANEL shall be from the respondent's school or college. The HEARING PANEL will include members with the necessary and appropriate expertise to carry out a thorough and authoritative evaluation of the relevant evidence. No one who has any unresolved personal, professional, or financial conflict of interest with the complainant, respondent, or witnesses will be appointed. The Vice Chancellor for Research and Engagement will designate one member to serve as Presiding Officer. The members of the Panel will act at all times to preserve the confidentiality of the inquiries made and the information gathered.

The HEARING PANEL should complete its duties, including preparation of its final

report, within 120 days of its appointment. The date on which the HEARING PANEL is appointed marks the beginning of the 120 period. Any need for additional time must be documented in writing. The Vice Chancellor for Research and Engagement will conform to any applicable reporting requirements of an involved state or federal sponsor. If additional time is needed and HHS support or applications for support are involved, then the Vice Chancellor for Research and Engagement will provide ORI with a complete status report, explanation for the delay, specific plan for completion, and a timetable for completing the hearing process. This is to be treated as a request to ORI.

When HHS support or applications for support are involved, then the Vice Chancellor for Research and Engagement will keep ORI apprised of any developments during the course of the hearing that disclose facts that may affect current or potential HHS funding for any such respondent, or that the PHS needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest.

1. Preparation of Formal Complaints and Responses

A charge of misconduct to be considered by a HEARING PANEL is to be in the form of a signed statement setting forth clearly and concisely the allegations concerning misconduct. A complaint ordinarily will be signed by the complainant(s) who initially brought the alleged misconduct to the attention of the Vice Chancellor for Research and Engagement, especially in circumstances in which the complainant(s) allegedly has been directly affected by the misconduct. However, in cases where the alleged misconduct involves rules and regulations concerning the conduct of research, or in which the alleged misconduct has no specific alleged victim, the Designee of the Committee of Inquiry or the Vice Chancellor for Research and Engagement prepares and signs the complaint. In all cases, the signatory(s) to the complaint become the complainant(s) in the proceedings of the HEARING PANEL.

2. The HEARING PANEL

Before a HEARING PANEL is convened, each party to the proceeding will have the right to object to the appointment of any panel member on the grounds that the member has a personal, professional, or financial conflict of interest. . The Vice Chancellor for Research and Engagement will determine whether any objections have merit and will judge whether a panel member will be seated.

Before any case is heard by the HEARING PANEL, the complainant and the respondent, along with their advocates, will meet with the Presiding Officer of the HEARING PANEL to attempt to clarify the issues and to define the areas of agreement. To encourage a fair and focused hearing the

Presiding Officer will notify the HEARING PANEL at the start of the proceedings about the points of agreement and disagreement.

The HEARING PANEL will hear testimony and consider evidence related to the complaint. The panel will determine whether misconduct has occurred. The HEARING PANEL may consult with University Counsel or have his or her assistance at the hearing.

3. Duties and Powers of the Presiding Officer

The Presiding Officer will:

- ensure an orderly presentation of all evidence;
- ensure that the proceedings are electronically recorded; and
- see that a fair and impartial decision based on the issues and evidence presented at the hearing is issued by the HEARING PANEL no later than ten working days after the conclusion of the hearing or, when written comments are submitted, ten working days after their submission. Any need for additional time must be documented in writing.

Duties and Powers of the HEARING PANEL

The HEARING PANEL will:

- conduct a fair and impartial hearing which ensures all the rights of all parties involved;
- define issues of contention;
- receive and consider all relevant evidence pertinent to the allegation;
- interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and electronically record each interview, provide the recording or transcript to the interviewee for correction, and include the recording in the record of the investigation;
- ensure that the complainant and respondent have full opportunity to present their claims orally or in writing, and to present witnesses and evidence which may establish their claims;
- continue the hearing to a subsequent date if necessary to permit the complainant and respondent(s) to produce additional evidence, witnesses, or other relevant materials;
- change the date, time or place of the hearing on its own motion or for good reason shown by the complainant and respondent(s), and with due notice to all parties;
- permit the complainant and respondent(s) to submit written comments within ten working days from the conclusion of the hearing;
- rule by majority vote on all questions of fact, interpretations of rules, regulations and policies, recommendations for penalties and relief, and

any requests that are made during the hearing.

The Conduct of The Hearing

The main purpose of the Hearing is to determine whether misconduct has occurred, as described by these procedures. The complainant and the respondent(s) will be given a full and fair hearing. The proceeding, although formal, is not a court proceeding and the HEARING PANEL will not be bound by the procedures and rules of evidence of a court of law. In most instances, complainants and respondents will be expected to speak for themselves. The HEARING PANEL will hear and admit evidence which it believes is pertinent to the case.

The HEARING PANEL will conduct its hearings by the following procedures:

- Unless otherwise agreed by a majority of the Panel, a closed hearing will be held within ten working days after the HEARING PANEL has been appointed.
- The complainant and respondent will have the opportunity to hear all testimony, to examine all evidence, to respond to any testimony, to present evidence and query witnesses, on the issues in contention.
- The complainant and the respondent(s) will have the right to be accompanied and advised by two people at any stage of the proceedings, neither of whom may be an attorney. However, advisors will not address the HEARING PANEL directly except in special cases, and with permission of the Panel.
- If the complainant or any respondent is a member of a collective bargaining unit, the advisors mentioned above may, upon the request of the party, be representatives of his or her union. However, neither complainant nor any respondent will be required to be advised by a union representative. When there is no request for union representation by a member of a union, the union will be notified that a hearing has been scheduled and will be allowed to send an observer.
- The hearing will be recorded electronically by the HEARING PANEL and the records will become the property of the University. Subsequently, either the complainant or the respondent(s) may have supervised access to the records by application to the Vice Chancellor for Research and Engagement.

Order of the Hearing

The proceedings before the HEARING PANEL will be as follows:

- The President Officer will read the charge(s) and ask the respondent to either admit or challenge each and all allegation(s).
- The complainant may present a brief opening statement, followed by a brief opening statement from the respondent.
- The HEARING PANEL will give each party the opportunity to present all relevant evidence.
- Each party may make a concluding statement to the HEARING PANEL.

- If the complainant or any respondent wishes to submit any written comments after the hearing, he or she will notify the Presiding Officer within two working days after the hearing. The written comments will be submitted within ten working days after the hearing's conclusion. Any need for additional time must be documented in writing. A HEARING PANEL, by a majority vote of its members, may make other rules concerning the procedures for conduct of the hearing which it deems appropriate and consistent with these procedures.

Decision of the HEARING PANEL

After all the evidence and testimony is presented, the HEARING PANEL will convene for private deliberations to determine whether misconduct has occurred, as described by these procedures. Misconduct will have been found to have occurred only when there is preponderance of supporting evidence. In all cases described below, the HEARING PANEL will prepare a written report of its investigation, comprising a comprehensive record of the information that it was provided and its sources, facts established, how the misconduct policy and procedures were applied, findings regarding whether and how misconduct occurred, and recommended actions, if any. A draft of this report must be given to the respondent(s), as well as a copy of, or supervised access to, the evidence. The respondent(s) may provide written comments regarding the draft report, within thirty (30) days, which comments will be attached and subsequently included thereafter with the final written report. The HEARING PANEL shall be consider these comments before issuing its final written report. This final written report will be made available to relevant external sponsoring agencies in accordance with any policies or law that may apply.

The HEARING PANEL final report includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must: (1) identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by a preponderance of the evidence that he or she did not engage in research misconduct because of honest error or a difference of opinion; (3) identify the specific PHS support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the respondent has pending with non-PHS federal agencies.

If the HEARING PANEL finds that misconduct has not occurred, it will recommend to the Vice Chancellor for Research and Engagement that the matter be closed. If the Vice Chancellor for Research and Engagement does not concur, then the Vice Chancellor for Research and Engagement will attach his/her own recommendation, which shall be attached to the HEARING PANEL's report and be included thereafter with the report. Respondent(s) will be permitted to attach a written reply, which will be included thereafter with the report. The HEARING PANEL report, with any attachments, will be forwarded to the Provost, who shall review the record and make the final decision.

If the HEARING PANEL finds that misconduct has occurred, then the violation(s) will be described and explained in its report. The final report must describe the policies and procedures under which the hearing was conducted, how and from whom information was obtained relevant to the hearing, the findings, the basis of the findings, actual text or an accurate summary of the views of respondent(s), and sanctions imposed by the Provost. The Panel will also recommend one or more penalties. The penalties will reflect the nature and severity of the misconduct, and will include, but are not limited to verbal admonition, written warning to be included in the individual's personnel file, removal from certain duties, demotion, suspension with or without pay and termination. Recommended penalties shall be consistent with Trustee personnel policies and collective bargaining agreements in force at the time of the decision. Penalties from external sponsors may apply separately or in addition. Respondent(s) are permitted to attach a written reply, which will be included thereafter with the report. The HEARING PANEL report, with any attachments, will be forwarded to the complainant, respondent(s), the Vice Chancellor for Research and Engagement and the Provost. The Provost shall review the report (record) and make the final decision. When HHS support or applications for support are involved, then the Vice Chancellor for Research and Engagement will provide the final HEARING PANEL report to ORI.

Decision of the Provost

- The Provost, after consultation with the Vice Chancellor for Research and Engagement, will act upon the recommendations of the HEARING PANEL within ten (10) working days of their receipt. Such action will normally include imposing appropriate sanctions or penalties as described above. The Provost's determination shall be based upon consideration of both the case in question and any prior record of violations of University policies by respondent(s). The Provost's decision shall be forwarded in writing to both the respondent(s) and the HEARING PANEL, with specific explanations of any change in the PANEL's recommendations.
- The penalized respondent(s) of the HEARING PANEL may request that the decision of the Provost be reviewed by the Chancellor by filing a written petition within ten (10) working days after receiving the Provost's decision. The decision of the Chancellor shall constitute the final University disposition of the matter and no further administrative appeals will be considered.
The Vice Chancellor for Research and Engagement will communicate in writing the decision to the relevant state or federal agencies or other entities as required by rules and regulations or terms of grant or contracts.
- The appropriate department chair or head and the appropriate dean will be informed in writing of the final disposition.
- The Vice Chancellor for Research and Engagement will undertake diligent efforts, as appropriate, to restore the reputation of each respondent for whom allegation(s) of misconduct were not confirmed. The Vice Chancellor for Research and Engagement will also undertake diligent efforts to protect the position and reputation of any complainant who has acted in good faith, as well any witness, or any committee or panel member; and protect them from retaliation by respondents and

- others.
- Penalties may be subject to additional review or grievance only as specified in collective bargaining agreements in force at the time of the decision.
 - These disciplinary actions will not affect, or be affected by, additional sanctions imposed upon the respondent(s) by an external funding agency.

VI. COOPERATION WITH AUTHORITIES

All members of the University of Massachusetts community are expected to give their full and continuing cooperation with Federal authorities during any investigatory reviews or any subsequent hearings or appeals under which the respondent(s) may contest Federal agency findings of research misconduct and proposed administrative actions. This includes providing, as necessary to develop a complete record of relevant evidence, all research records and evidence under the campus' control or custody, or in the possession of, or accessible to, any persons within its authority. All persons shall also assist, as necessary, in administering and enforcing any Federal administrative actions imposed on any institutional members.

VII. RECORD RETENTION

The Vice Chancellor for Research and Engagement will maintain and provide to ORI upon request "records of research misconduct proceedings" as that term is defined by 42 CFR § 93.317. Unless custody has been transferred to HHS or ORI has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for 7 years after completion of the proceeding or the completion of any PHS proceeding involving the research misconduct allegation. The Vice Chancellor for Research is also responsible for providing any information, documentation, research records, evidence or clarification requested by ORI to carry out its review of an allegation of research misconduct or of the institution's handling of such an allegation.