

## UCCS Research Misconduct Procedures

### A. General Policy

The University of Colorado Colorado Springs, herein referred to as “UCCS,” has the responsibility to foster a research environment that promotes the responsible conduct of research, discourages research misconduct, and addresses allegations of possible research misconduct. UCCS’s obligations to prevent and investigate allegations of research misconduct arise under Article V of the Laws of the Regents, *University of Colorado Administrative Policy Statement Misconduct in Research, Scholarship and Creative Activities*, and the requirements of federal agencies, including the National Institutes of Health/Public Health and the National Science Foundation.

The Faculty Assembly of UCCS has formed the Faculty Committee on Research Misconduct (“FCRM”) to fulfill its obligation of investigating allegations of research misconduct. These guidelines and procedures are intended to provide guidance with respect to the manner in which UCCS, through its FCRM, will carry out these responsibilities.

### B. Definitions

**Research Misconduct** includes but is not limited to: (i) fabrication, falsification, plagiarism and other forms of misrepresentation of ideas, and other serious deviations from accepted practices in proposing, carrying out, reviewing, or reporting results from research; or (ii) failure to comply with established standards regarding authors’ names on publications. Research Misconduct does not include honest error or honest differences in interpretations or opinions.

### C. Roles and Responsibilities

1. **Deciding Official.** The Deciding Official (“DO”) will be the Provost unless the Chancellor appoints, in writing, another person to serve. The Deciding Official will receive the report from the FCRM and determine the appropriate institutional response. To the extent possible the DO shall have no prior involvement in the institution’s inquiry, investigation, or allegation assessment.
2. **Research Integrity Officer.** The Research Integrity Officer (“RIO”) will be the Associate Vice Chancellor for Research unless the Chancellor appoints, in writing, another person to serve. The RIO is responsible for implementing these guidelines and procedures. In addition, the RIO is responsible for advising individuals considering whether to submit an allegation of research misconduct about these guidelines and procedures, receiving allegations of research misconduct, coordinating the work of the FCRM and its committees, providing timely notice to individuals alleged to have engaged in research misconduct, and providing timely notice of research misconduct inquiries and investigations to appropriate UCCS and federal agency officials.
3. **Faculty Committee on Research Misconduct.** The Faculty Committee on Research Misconduct (“FCRM”) is a standing committee of the Faculty Assembly. The FCRM shall include at least one tenure or tenure track faculty member from each of UCCS’ schools and colleges. The Chair of the Faculty Assembly shall seek nominations for faculty members to serve on the FCRM from the Deans of the appropriate schools and colleges and from the Provost. Committee membership should reflect the diversity of the faculty and should comply with University policies for constituting committees. The Chair of the FCRM shall be appointed by the Research Integrity Officer from the membership of the committee.

Members of the FCRM shall be appointed for staggered five year terms. Members are not limited in the number of terms they may serve. If a member is replaced before the end of a regular five year term, the replacement will serve the remainder of the current term.

The basic responsibilities of the FCRM are to promote exemplary ethical standards of research conduct, to receive allegations of misconduct, to ensure thorough, fair and expeditious proceedings for the evaluation of allegations, and to recommend possible disciplinary action, policy changes or other actions to remedy the misconduct and to prevent similar misconduct in the future.

4. **Complainant.** The Complainant is the individual who presents a written allegation of research misconduct to the RIO or FCRM. A Complainant is required to make allegations in good faith and with a reasonable basis for believing that research misconduct occurred.

5. **Respondent.** The Respondent is the person against whom an allegation of research misconduct has been made.

#### D. Operating Procedures for the FCRM

1. **Confidentiality.** All members of the FCRM and support staff must agree to full confidentiality of all committee proceedings. Attention should be given at each stage of these procedures to avoiding conflicts of interest and impartiality. The FCRM should sign a confidentiality statement when becoming a member of this committee.
2. **Meeting schedule.** The FCRM shall meet at least twice each academic year, once in the fall and once in the spring, for the purpose of complying with the requirements of APS 1007. Additional meetings shall be called by the Chair of the FCRM as necessary, e.g., for the purpose of dealing with an investigation of misconduct, with attention paid to the timetables in these procedures.
3. **Voting Procedures.** The FCRM shall be considered to have a quorum when a simple majority of its members are present. The FCRM may take a formal action only upon the majority vote of the quorum. The votes of the FCRM shall be recorded only by indicating the numbers of members voting for or against a motion; the names of the members shall not be recorded or reported in the minutes. (Herein such votes are referred to as recorded votes.)
4. **Clerical and Administrative Support.** Clerical and administrative support shall be provided by the Provost's Office. Copies of all FCRM written records are to be kept by the Provost's Office in accordance with the University's record retention policy.
5. **Amendments to Guidelines and Procedures.** These guidelines and procedures may be changed or amended by the Research Integrity Officer at any time to ensure compliance with University, Federal, or other requirements.

#### E. Conducting an Assessment and Inquiry

1. All persons having knowledge of Research Misconduct, or having reason to believe that such Research Misconduct may have occurred, have an obligation to report observed or suspected Research Misconduct to the Research Integrity Officer. Allegations may also be given to any member of the FCRM, who shall direct them to the Research Integrity Officer. All allegations must be in writing, either from an identified or anonymous source. If an allegation is communicated to the Research Integrity Officer anonymously in some other way, e.g., via the ethics hotline, the Research Integrity Officer will have the discretion to record the allegations in writing for the purpose of implementing these procedures. Upon receiving an allegation of misconduct in research, the Research Integrity Officer will notify the Complainant, if known, of the existence of APS1007 and of these procedures. If unsigned allegations are submitted by a research sponsor, that sponsoring agency shall be regarded as the Complainant for reporting purposes. If no funding agency is associated with unsigned or anonymous allegations, the portions of these procedures which pertain to a specific Complainant shall not be applicable.
2. Within 30 days of the receipt of allegations by the RIO, the RIO shall convene the FCRM. The FCRM shall determine whether the allegations i) are sufficiently credible and specific so that potential evidence of Research Misconduct may be identified, and ii) meet the definition of Research Misconduct. The FCRM need not conduct any research or gather any data beyond what may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently specific so that a potential instance of research misconduct may be identified.
3. If the FCRM, upon a majority vote, determines that the allegations present a possible instance of Research Misconduct, the allegations will be referred for inquiry as described herein. If the FCRM determines the allegations do not state a possible instance of Research Misconduct or do not meet the definition of Research Misconduct, the chair of FCRM shall notify the RIO who shall notify the Complainant.
4. Upon a determination by the FCRM that the allegations merit further inquiry, the FCRM shall appoint an Inquiry Committee of at least three (3) members to determine whether any or all allegations warrant a full investigation. Members should be selected based on their academic rank and level of experience

with the type of misconduct allegations. No members of the FCRM shall be members of the Inquiry Committee. The inquiry is a fact-finding, non-adversarial proceeding to determine whether sufficient credible evidence of research misconduct exists to warrant full investigation. The inquiry is intended only to provide a means of initially evaluating the merits of the allegations of research misconduct for the purpose of identifying and dismissing non-meritorious allegations. Consequently, because of the limited nature of the inquiry proceedings, an inquiry does not require the Inquiry Committee to fully review all of the evidence related to the allegation.

5. The Respondent is normally not informed of an allegation until the FCRM has determined the inquiry procedure should proceed. Once this determination has been made, the RIO, on behalf of the FCRM, must make a good faith effort to notify the Respondent in writing of the allegations and inform the Respondent of university and campus rules and procedures governing the inquiry process.
6. The inquiry shall be initiated and conducted as expeditiously as possible. It will normally be completed within 30 calendar days of the determination that an inquiry is warranted.
7. The Inquiry Committee shall request confidentiality from all participants in the inquiry, and each interested party shall be interviewed separately. Any person – whether a Complainant, Respondent, or witness – may have an advisor or attorney present at any interview to act as the person’s personal advisor. Such advisors may assist in the presentation of information but may not speak for these persons or conduct cross-examinations.
8. The Inquiry Committee shall typically begin its inquiry by reviewing the written allegations of research misconduct and any supporting materials to determine if further investigation of the allegations is warranted. The Inquiry Committee may interview or submit written questions to the Complainant, but is not required to do so.
9. In extraordinary cases where it is unable to form an opinion whether the written allegations are baseless or groundless, the Inquiry Committee may interview additional witnesses. In these cases, the Respondent will be informed of the allegations before any additional interviews are conducted.
10. On the basis of information provided by the Complainant, physical evidence, and any other interviews deemed necessary, the Inquiry Committee, by recorded simple majority vote, shall decide whether further investigation into any or all allegations of research misconduct is warranted or whether to terminate consideration of any or all of the allegations. The Inquiry Committee shall provide its recommendation in a fully documented written report to the FCRM for appropriate action.
11. The Inquiry Committee’s report shall include the following:
  - The name and position of the Respondent;
  - A description of the allegations of research misconduct;
  - Grant support (if applicable), including, for example, grant numbers, grant applications; contracts, and publications listing the source of support;
  - The names and titles of the committee members who conducted the inquiry;
  - A summary of the inquiry process;
  - A list of the research records reviewed;
  - Summaries of interviews;
  - The basis for recommending or not recommending that the allegations warrant a full investigation;
  - Whether any other actions should be taken if an investigation is not recommended; and
  - Any comments by the Respondent to the report.
12. Before submitting its report to the FCRM, the Inquiry Committee shall provide a copy of its proposed report to the Respondent for review. If the Respondent wishes to submit any comments on the proposed report to the FCRM, the Inquiry Committee shall include those comments with the final report that is transmitted to the FCRM. The Respondent’s comments shall be received by the Inquiry Committee within ten days after the Respondent’s receipt of the proposed report. Upon receipt of comments by the Respondent, the Inquiry Committee may modify its proposed report before submitting a final report to the FCRM. The Inquiry Committee is not required to provide the Respondent with its modifications before submitting the final report to the FCRM.

13. Upon its review of the Inquiry Committee's report and a majority vote the FCRM may:
  - Dismiss some or all of the allegations of research misconduct. The inquiry shall be deemed concluded as to any dismissed allegation. The RIO shall inform the Complainant and the Respondent of the FCRM's determination and the bases for its determination. If the FCRM determines that some or all of the Complainant's allegations were made without reasonable basis in fact and with malicious intent, the FCRM may refer the Complainant to appropriate entities within the University or other institutions; or
  - Initiate a full investigation of some or all of the allegations of research misconduct. The FCRM shall refer any appropriate allegations for investigation to the Investigating Committee.
14. The RIO shall inform the Complainant and the Respondent of the FCRM's determination and the bases for its determination. The RIO will provide the Respondent with a copy of the final Inquiry report. The FCRM may, but is not required to, provide a copy of the Inquiry report to the Complainant. The FCRM shall not provide the Complainant with a copy of the report unless the Complainant agrees to be bound by a confidentiality agreement preventing disclosure of the contents of the report. If either the Complainant or Respondent wishes to submit any comments upon the report to the FCRM, they will be included in the final record (and will be provided to the Investigating Committee if applicable). Such comments do not constitute an appeal of the FCRM's decision, which is final.
15. Within 30 calendar days of the decision by the FCRM that an investigation is warranted, the RIO will so inform the Office of Research Integrity within the Public Health Service of the National Institutes of Health ("PHS/ORI"), if applicable, and provide PHS/ORI with a copy of the inquiry report. The RIO will provide the following information to PHS/ORI upon request: (1) the institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges to be considered in the investigation.
16. If the FCRM decides that an investigation is not warranted, the RIO shall secure and maintain for 7 years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by PHS/ORI of the reasons why an investigation was not conducted. These documents must be provided to PHS/ORI or other authorized HHS personnel upon request.

#### **F. Investigation Phase**

1. Unless extraordinary circumstances exist, the investigation phase must begin within 30 calendar days after the determination by the FCRM that an investigation is warranted. The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth. The ultimate purpose is to determine whether research misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations.
2. As soon as possible after the FCRM votes to pursue an investigation, the FCRM shall appoint an ad hoc committee of three to five members, including a chair, to serve as the Investigation Committee. The Investigation Committee is charged with conducting a thorough and unbiased investigation of the allegations of misconduct.
3. The FCRM may select Investigative Committee members from inside or outside the University, but no member of the FCRM may serve on the Investigation Committee. In selecting members, the FCRM should consider: (i) any conflicts of interest or bias that would prevent a person from serving as an impartial member of the Investigative Committee; (ii) the member's area of expertise and ability to provide substantive assistance to the investigative process; and (iii) the member's academic rank.
4. The RIO shall notify the Respondent and Complainant of the names of potential Investigative Committee members to ensure that Investigative Committee members do not have a bias or conflict of interest in considering the case. If a potential member's impartiality is questioned, the FCRM will determine whether the potential member should be excluded from the Investigative Committee. If, during the course of an investigation, a member's impartiality is questioned, the FCRM will determine whether the potential member should be removed and replaced.

5. The RIO will convene the first meeting of the Investigative Committee at which the Chair of the FCRM and the RIO will review with the Investigation Committee the charge, the inquiry report, and these Guidelines and Procedures.
6. The FCRM will provide the Investigation Committee with a written charge that:
  - Describes the allegations and related issues identified during the inquiry;
  - Identifies the Respondent;
  - Informs the committee that it must conduct the investigation as prescribed in these Guidelines and Procedures;
  - Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, Research Misconduct occurred and, if so, the type and extent of it and who was responsible;
  - Informs the committee that the Respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion;
  - Informs the committee that it must determine by a preponderance of the evidence whether the Respondent committed the research misconduct intentionally, knowingly, or recklessly; and
  - Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and, if applicable, 42 CFR § 93.313.
7. The Investigative Committee has the responsibility for conducting a thorough and unbiased investigation. In accordance with this mandate, the Investigative Committee shall:
  - Begin its proceedings by studying the information and evidence collected by the Inquiry Committee.
  - Determine what additional evidence the Investigative Committee needs to make an informed determination as to whether research misconduct has occurred, including interviews of witnesses (including witnesses already interviewed by the Inquiry Committee) and review of additional evidence.
  - Provide the Respondent with an opportunity to provide oral or documentary evidence related to the allegations or research misconduct.
  - Provide the Respondent with an opportunity to identify witnesses with knowledge in the area of the alleged research misconduct.
  - Provide the Respondent with an opportunity to review and respond to any evidence that the Investigative Committee relies upon in making its determinations.
  - Preserve the evidence that it relies upon in making its determinations.
8. The Chair of the Investigative Committee shall control the proceedings and determine the admissibility of evidence. The Investigative Committee shall not be bound by the Colorado Rules of Evidence and may admit any evidence that the Chair deems reasonably related to the allegations of research misconduct. The Chair shall have the ability to limit the presentation of irrelevant or repetitious evidence.
9. Any party appearing before the committee may have an advisor present, who may be an attorney. The advisor may assist the party in the presentation of information but may not speak on the party's behalf.
10. The Investigative Committee shall normally complete its investigation, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to FCRM, within 120 days of the Investigative Committee's first meeting. However, if the RIO determines that the investigation cannot be completed within this 120-day period, the RIO may extend the time within which the Investigative Committee is to complete its investigation. The rationale for this extension should be included in the final report of the Investigation Committee. If the investigation falls under the jurisdiction of the Public Health Service, the RIO will submit to PHS/ORI a written request for an extension, setting forth the reasons for the delay and, if such an extension is granted and PHS/ORI direct the filing of periodic progress reports, the RIO will ensure that such periodic progress reports are filed with PHS/ORI.
11. When it considers that its task has been completed, the Investigation Committee shall determine by majority vote whether the allegations of misconduct are supported by a preponderance of the

evidence. The Investigation Committee shall reach one of the following decisions as to each allegation of research misconduct:

- A finding of Research Misconduct;
- A finding of no culpable Research Misconduct, but serious research error; or
- A finding of no Research Misconduct and no serious research error.

12. The Investigative Committee shall communicate this decision to the FCRM in an initial written investigative report. The investigative report shall:
  - Describe the nature of the allegation of research misconduct, including identification of the Respondent;
  - Describe any external support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing this support;
  - Describe the specific allegations of research misconduct considered in the investigation;
  - Describe the institutional policies and procedures under which the investigation was conducted;
  - Identify and summarize the sources of evidence that the Investigative Committee relied upon in making its determination;
  - Include 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 or other form of conduct outlined in University policies and rules; (2) identify whether the research misconduct was committed intentionally, knowingly, or recklessly; (3) 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 that he or she did not engage in research misconduct because of honest error or a difference of opinion; (4) identify the specific evidence that the Investigative Committee relied upon in making its determination; (5) identify whether the research misconduct would require any publications to need correction or retraction; and (6) identify the person(s) responsible for the research misconduct.
13. If the Investigation Committee determines that the Respondent did not engage in an alleged act of Research Misconduct, the final report should indicate whether the Investigation Committee finds that allegation was made without reasonable basis in fact and with malicious intent.
14. After completing its report, the Investigative Committee shall transmit the report to the FCRM. The FCRM shall consider the report to determine whether it shall request additional information, explanation, or investigation from the Investigative Committee.
15. If the FCRM requests any additional information, explanation, or investigation from the Investigating Committee, it shall return the report to the Investigating Committee for further response. Upon completing any additional response, the Investigating Committee shall return the report to the FCRM.
16. When the FCRM determines that the Investigating Committee's report is complete and no further response is necessary, it shall accept the report as final and inform the Investigating Committee that it has completed its obligations.
17. Upon receipt of the final investigation report, the RIO shall provide the Respondent with a copy for comment and, concurrently, a copy of, or supervised access to the evidence upon which the report is based.
18. The Respondent will be allowed 30 days from the date he/she received the final investigation report to provide the RIO with his/her written response to report. The RIO shall provide Respondent's written response to the FCRM.

19. The FCRM shall consider the Investigative Committee's report, as well as any comments by the Respondent before preparing the FCRM final report. Respondent's response will be included as an attachment to the FCRM final report.
20. At its option, the FCRM may, but is not required to, provide the Complainant a copy of the investigation report, or relevant portions of it, for Complainant's response. The FCRM shall not provide the Complainant with a copy of the report unless the Complainant agrees to be bound by a confidentiality agreement preventing disclosure of the contents of the report. If the FCRM allows the Complainant to receive the report, the Complainant will be allowed 30 days from the date he/she received the final investigation report to provide the RIO with his/her written response to the final investigation report.

#### **G. Disposition by the FCRM**

1. Upon receipt of the Investigation Committee's final investigation report and the responses thereto, if any, from the Respondent or Complainant, the FCRM shall review the same and create a final FCRM report. The final FCRM report is not intended to be a separate investigation of the allegations. Rather, it shall include recommendations based on the findings included in the Investigative Committee Report regarding:
  - Possible disciplinary action, policy changes, or other actions that might ensure that similar Research Misconduct does not occur in the future.
  - Steps to correct or ameliorate the effects of the Research Misconduct.
  - Steps to be taken to prevent retaliation against the Complainant or other persons providing information in the investigation and to restore the positions and reputations of persons who have made allegations in good faith.
  - Whether the Respondent's reputation has been unjustly damaged by the investigation and, if so, what steps might be taken to repair that damage.
  - Whether any allegation is judged to have been made without reasonable basis in fact and with malicious intent.
2. The final report of the FCRM, along with the final report of the Investigation Committee, shall be submitted to the Deciding Official and to the Respondent.

#### **H. Final Disposition**

1. Upon receipt of the final reports of the FCRM and the Investigation Committee, the DO will determine in writing: (1) whether the University accepts the investigation report, its findings, and the FCRM's recommendations; and (2) set forth the institution's actions in response thereto. If this determination varies from the findings of the investigation committee and/or the recommendations of the FCRM, the DO will, as part of his/her written determination, explain the basis for the decision.
2. When the DO has reached a final decision on the case, the DO will so notify both the Respondent and the Complainant in writing.
3. The DO, in consultation with the RIO and the Office of University Counsel, will determine whether other university officials, PHS/ORI, law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the Respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

#### **I. Appeals**

The determination of the DO is final and may not be appealed. Any disciplinary or administrative action taken as a result of the DO's determination shall be handled in accordance with the University's normal grievance and appeal processes.

#### **J. Notice to PHS/ORI or Other Funding Agencies of Institutional Findings and Actions**

To the extent applicable, unless an extension has been granted, the RIO must, within the 120-day period for completing the investigation submit the following to PHS/ORI or other funding agencies that require such reporting: (1) a copy of the final investigation report with all attachments; (2) a statement of whether the institution accepts the findings of the investigation report; (3) a statement of whether the institution found misconduct and, if so, who committed the misconduct; (4) a description of any pending or completed administrative actions against the Respondent; and (5) a description of any pending or completed administrative actions to correct or ameliorate the effects of the misconduct and/or to ensure that that similar misconduct does not occur in the future.

**K. Non-Retaliation**

Members of the University community may not retaliate in any way against Complainants, Respondents, witnesses, or committee members. Any alleged or apparent retaliation shall immediately be reported to the RIO.

Adopted by FRMC on November 14, 2011