

ISUPP 7060 IMPLEMENTING PROCEDURES FOR RESPONDING TO ALLEGATIONS OF MISCONDUCT IN RESEARCH AND SCHOLARSHIP

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Research Integrity Officer (RIO) Responsibilities

I. General

The Research Integrity Officer (RIO) has lead responsibility for ensuring that the institution:

- A. Takes all reasonable and practical steps to foster a research environment that promotes the responsible conduct of research, research training, and activities related to that research or research training, discourages research misconduct, and deals promptly with allegations or evidence of possible research misconduct.
- B. Has written policies and procedures for responding to allegations of research misconduct and reporting information about that response to ORI or external research sponsors, as required by 42 CFR Part 93.
- C. Complies with its written policies and procedures and the requirements of 42 CFR Part 93.
- D. Informs its institutional members who are subject to 42 CFR Part 93 about its research misconduct policies and procedures and its commitment to compliance with those policies and procedures.
- E. Takes appropriate interim action during a research misconduct proceeding to protect public health, federal funds and equipment, and the integrity of the PHS supported research process.

II. Notice and Reporting to ORI and Cooperation with ORI, or Other External Funding Source

The RIO has lead responsibility for ensuring that ISU:

- A. Files an annual report with ORI or external research sponsors, the information prescribed by them.
- B. Sends to external research sponsors with the annual report such other aggregated information as they may prescribe on the institution's research misconduct proceedings and the institution's compliance with 42 CFR Part 93.
- C. Notifies ORI immediately if, at any time during the research misconduct proceeding, it has reason to believe that health or safety of the public is at risk, HHS resources or interests are threatened, research activities should be suspended, there is reasonable indication of possible violations of civil or criminal law, federal action is required to protect the interests of those involved in the research misconduct proceeding, the institution believes that the research

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misconduct proceeding may be made public prematurely, or the research community or the public should be informed.

D. Provides external research sponsors with the written finding by the responsible institutional official that an investigation is warranted and a copy of the inquiry report, within 30 days of the date on which the finding is made.

E. Notifies external research sponsors of the decision to begin an investigation on or before the date the investigation begins.

F. Within 120 days of beginning an investigation, or such additional days as may be granted by the research sponsor, (or upon completion of any appeal made available by ISU) provides the research sponsor with the investigation report, a statement of whether ISU accepts the investigation's findings, a statement of whether the institution found research misconduct and, if so, who committed it, and a description of any pending or completed administrative actions against the respondent.

G. Seeks advance ORI approval, when applicable, if the institution plans to close a case at the inquiry, investigation, or appeal stage on the basis that the respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except the closing of a case at the inquiry stage on the basis that an investigation is not warranted or a finding of no misconduct at the investigation stage.

H. Cooperates fully with external research sponsors during its oversight review and any subsequent administrative hearings or appeals, including providing all research records and evidence under the institution's control, custody, or possession and access to all persons within its authority necessary to develop a complete record of relevant evidence.

III. Research Misconduct Proceeding

A. General

The RIO is responsible for:

1. Promptly taking all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner.
2. Taking 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 evidence.
3. Providing confidentiality to those involved in the research misconduct proceeding as required

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by 42 CFR § 93.108, other applicable law, and institutional policy.

4. Determining whether each person involved in handling an allegation of research misconduct has an unresolved personal, professional or financial conflict of interest and taking appropriate action, including recusal, to ensure that no person with such a conflict is involved in the research misconduct proceeding.
5. Keeping the Deciding Official (DO) and others who need to know apprised of the progress of the review of the allegation of research misconduct.
6. In cooperation with other institutional officials, taking all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and to counter potential or actual retaliation against them by respondents or other institutional members.
7. Making all reasonable and practical efforts, if requested and as appropriate, to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.
8. Assisting the DO in implementing his/her decision to take administrative action against any complainant, witness, or committee member determined by the DO not to have acted in good faith.
9. Maintaining records of the research misconduct proceeding, as defined in 42 CFR § 93.317, in a secure manner for 7 years after completion of the proceeding, or the completion of any ORI proceeding involving the allegation of research misconduct, whichever is later, unless custody of the records has been transferred to ORI or ORI has advised that the records no longer need to be retained.
10. Ensuring that administrative actions taken by the institution and ORI are enforced and taking appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, and licensing boards, of those actions.

B. Allegation Receipt and Assessment

The RIO is responsible for:

1. Consulting confidentially with persons uncertain about whether to submit an allegation of research misconduct.
2. Receiving allegations of research misconduct.
3. Assessing each allegation of research misconduct in collaboration with the VPR to determine if an inquiry is warranted because the allegation falls within the definition of research misconduct, is

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within the jurisdictional criteria of 42 CFR § 93.102(b), and is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

C. Inquiry

The RIO is responsible for:

1. Initiating the inquiry process if it is determined that an inquiry is warranted.
2. At the time of, or before beginning the inquiry, making a good faith effort to notify the respondent in writing, if the respondent is known.
3. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, taking all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding, inventorying the records and evidence and sequestering them in a secure manner, except that 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 the instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments.
4. Appointing an inquiry committee and committee chair as soon after the initiation of the inquiry as is practical.
5. Preparing a charge for the inquiry committee in accordance with the institution's policies and procedures.
6. Convening the first meeting of the inquiry committee and at that meeting briefing the committee on the allegations, the charge to the committee, and the appropriate procedures for conducting the inquiry, including the need for confidentiality and for developing a plan for the inquiry, and assisting the committee with organizational and other issues that may arise.
7. Providing the inquiry committee with needed logistical support, e.g., expert advice, including forensic analysis of evidence, and clerical support, including arranging witness interviews and recording or transcribing those interviews.
8. Being available or present throughout the inquiry to advise the committee as needed and consulting with the committee prior to its decision on whether to recommend that an investigation is warranted on the basis of the criteria in the institution's policies and procedures and 42 CFR § 93.307(d).
9. Determining whether circumstances clearly warrant a period longer than 60 days to complete the inquiry (including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted), approving an extension if warranted, and documenting the reasons for

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exceeding the 60-day period in the record of the research misconduct proceeding.

10. Assisting the inquiry committee in preparing a draft inquiry report, sending the respondent a copy of the draft report for comment (and the complainant if the institution's policies provide that option) within a time period that permits the inquiry to be completed within the allotted time, taking appropriate action to protect the confidentiality of the draft report, receiving any comments from the respondent (and the complainant if the institution's policies provide that option), and ensuring that the comments are attached to the final inquiry report.
11. Receiving the final inquiry report from the inquiry committee and forwarding it, together with any comments the RIO may wish to make, to the DO who will determine in writing whether an investigation is warranted.
12. Within 30 days of a DO decision that an investigation is warranted, providing ORI with the written finding and a copy of the inquiry report and notifying those institutional officials who need to know of the decision.
13. Notifying the respondent (and the complainant if the institution's policies provide that option) whether the inquiry found an investigation to be warranted and including in the notice copies of or a reference to 42 CFR Part 93 and the institution's research misconduct policies and procedures.
14. Providing to ORI, upon request, the institutional policies and procedures under which the inquiry was conducted, the research records and evidence reviewed, transcripts or recordings of any interviews, copies of all relevant documents, and the allegations to be considered in the investigation.
15. If the DO decides that an investigation is not warranted, securing and maintaining for 7 years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by ORI of the reasons why an investigation was not conducted.

D. Investigation

The RIO is responsible for:

1. Initiating the investigation within 30 calendar days after the determination by the DO that an investigation is warranted.
2. On or before the date on which the investigation begins:
 - a) notifying external research sponsors of the decision to begin the investigation and providing them a copy of the inquiry report; and
 - b) notifying the respondent in writing of the allegations to be investigated.
3. Prior to notifying respondent of the allegations, taking all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to

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conduct the research misconduct proceeding that were not previously sequestered during the inquiry.

4. In consultation with other institutional officials as appropriate, appointing an investigation committee and committee chair as soon after the initiation of the investigation as is practical.
5. Preparing a charge for the investigation committee in accordance with the institution's policies and procedures.
6. Convening the first meeting of the investigation committee and at that meeting:
 - a) briefing the committee on the charge, the inquiry report and the procedures and standards for the conduct of the investigation, including the need for confidentiality and developing a specific plan for the investigation; and
 - b) providing committee members a copy of the institution's policies and procedures and 42 CFR Part 93.
7. Providing the investigation committee with needed logistical support, e.g., expert advice, including forensic analysis of evidence, and clerical support, including arranging interviews with witnesses and recording or transcribing those interviews.
8. Being available or present throughout the investigation to advise the committee as needed.
9. On behalf of the institution, the RIO is responsible for each of the following steps and for ensuring that the investigation committee:
 - a) uses diligent efforts to conduct an investigation that includes an examination of all research records and evidence relevant to reaching a decision on the merits of the allegations and that is otherwise thorough and sufficiently documented;
 - b) takes reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
 - c) interviews 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 records or transcribes each interview, provides the recording or transcript to the interviewee for correction, and includes the recording or transcript in the record of the research misconduct proceeding; and
 - d) pursues diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continues the investigation to completion.
10. Upon determining that the investigation cannot be completed within 120 days of its initiation (including providing the draft investigation report for comment and sending the final report with any comments to ORI or other sponsor), submitting a request to external research sponsors for an extension of the 120-day period that includes a statement of the reasons for the extension. If the extension is

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granted, the RIO will file periodic progress reports with the research sponsor.

11. Assisting the investigation committee in preparing a draft investigation report that meets the requirements of 42 CFR Part 93 and the institution's policies and procedures, sending the respondent (and complainant at the institution's option) a copy of the draft report for his/her comment within 30 days of receipt, taking appropriate action to protect the confidentiality of the draft report, receiving any comments from the respondent (and complainant at the institution's option) and ensuring that the comments are included and considered in the final investigation report.
12. Transmitting the draft investigation report to institutional counsel for a review of its legal sufficiency.
13. Assisting the investigation committee in finalizing the draft investigation report and receiving the final report from the committee.
14. Transmitting the final investigation report to the DO and:
 - a) if the DO determines that further fact-finding or analysis is needed, receiving the report back from the DO for that purpose;
 - b) if the DO determines whether or not to accept the report, its findings and the recommended institutional actions, transmitting to ORI within the time period for completing the investigation, a copy of the final investigation report with all attachments, a statement of whether the institution accepts the findings of the report, a statement of whether the institution found research misconduct, and if so, who committed it, and a description of any pending or completed administrative actions against the respondent; or
 - c) if the institution provides for an appeal by the respondent that could result in a modification or reversal of the DO's finding of research misconduct, ensuring that the appeal is completed within 120 days of its filing, or seeking an extension from ORI in writing (with an explanation of the need for the extension) and, upon completion of the appeal, transmitting to ORI a copy of the investigation report with all attachments, a copy of the appeal proceedings, a statement of whether the institution accepts the findings of the appeal proceeding, a statement of whether the institution found research misconduct, and if so, who committed it, and a description of any pending or completed administrative actions against the respondent.
15. When a final decision on the case is reached, the RIO will normally notify both the respondent and the complainant in writing and will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of involved journals, collaborators of the respondent, or other relevant parties should be notified of the outcome of the case.
16. Maintaining and providing to ORI upon request all relevant research records and records of the institution's research misconduct proceeding, including the results of all interviews and the transcripts or recordings of those interviews.