

## Procedures for Investigating Allegations of Misconduct in the Pursuit of Scholarship and Research under SPG 303.03

### A. Applicability of the Procedures

This document sets forth the implementing procedures to the Policy Statement on the Integrity of Scholarship and Research (SPG 303.03). These procedures apply to allegations of research misconduct when the respondent is one of the following individuals:

1. All instructional faculty (tenure track and clinical track), research faculty, librarians, and other University staff members, including without limitation: graduate student research assistants, graduate student teaching assistants, graduate student staff assistants, postdoctoral fellows and postdoctoral research associates, house officers, visiting faculty and students or staff, sponsored affiliates, temporary staff or student employees, faculty or staff on sabbatical leave, adjunct faculty and emeritus faculty when performing University work, faculty or staff on leave without pay, paid and unpaid interns, and all other members of the University of Michigan's academic community;
2. Undergraduate students engaged in research or other scholarly activity. In cases in which the alleged misconduct relates to a student's coursework or other academic activities, the applicable school or college procedure for handling allegations of academic misconduct by students will apply. In cases in which the status of a student respondent is unclear, the responsible administrator will elect whether to employ these procedures or other procedures available for the investigation and adjudication of alleged academic misconduct by students; and
3. Former University students or employees, if the alleged misconduct occurred during the period of attendance or employment at the University.

### B. Definition of Research Misconduct. Research Misconduct is defined as *fabrication*, *falsification*, and *plagiarism*.

1. *Fabrication*: making up data or results and recording them in the research record.
2. *Falsification*: 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.
3. *Plagiarism*: the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

### C. Professional Disputes and Other Violations of Research Integrity. Adjudication of disputes/disagreements between current and/or former collaborators, as well as adjudication of other deviations from accepted research practices, including but not limited to those listed below, are generally outside the purview of SPG 303.03 and are managed by School/College, Departmental, or other appropriate administrative processes.

1. *Abuse of confidentiality*: sharing or releasing the ideas or data of others by one with whom they were shared with the legitimate expectation of confidentiality (e.g., disclosing ideas from others' grant proposals, award applications, or manuscripts for publication when one is a reviewer for granting agencies or journals, or is an internal reviewer);
2. *Dishonesty in publication*: knowingly publishing material that will mislead readers (e.g., misrepresenting data, misrepresenting research progress; or adding the names of other authors without permission);
3. *Property violations*: stealing, tampering with, or destroying property of others, such as research papers, supplies, equipment, or products of research or scholarship;
4. *Retaliation*: taking punitive action against an individual for having reported alleged research misconduct or other violations of research integrity;
5. Directing or encouraging others to engage in any of the above listed offenses.



#### **D. Responsibilities of the Research Integrity Officer (RIO)**

The RIO is appointed by the Vice President for Research and has the primary responsibility for overseeing the procedures described in this document. The RIO assesses allegations to ascertain whether they could, if true, constitute research misconduct under SPG 303.03; determines when the allegations warrant further inquiry; oversees inquiries; and oversees the activities of any investigation committees to ensure compliance with SPG 303.03 and the appropriate federal policies, if applicable. The RIO is also responsible for making timely reports to the relevant external agencies, as required, and for appropriately maintaining documentation of all research misconduct proceedings.

#### **E. Considerations**

##### **1. Confidentiality**

Because of the potential jeopardy to the reputation and rights of a respondent, great care will be taken to handle reporting, preliminary assessments, inquiries, and investigations in a way that preserves confidentiality, and to provide information only to those with a need to know, which includes those within the University who need the information to perform their University roles. The procedures used are intended to safeguard the rights of the respondent and the complainant, if a complainant is identified, and to recognize the interest of the University's academic community in research integrity. The University will protect, to the best of its ability, the privacy of those who, in good faith, report allegations of research misconduct, as well as of those who are the subjects of such allegations. The University will also provide, to the best of its ability, an expeditious and thorough review of the allegation, and will provide the respondent the opportunity to comment, as appropriate, during the review process.

##### **2. External Notifications**

Despite the University's general commitment to preserving confidentiality noted above, there may be cases in which the University may need – at any stage of the process, including before the University's review has concluded – to notify and/or consult with external entities about the allegation or aspects thereof. In any cases involving potential external notification, the Vice President for Research, in consultation with the Office of the General Counsel, will decide if and when a notification should occur, what any such notification will include, and to whom it should be directed.

##### **3. Interim Measures**

In some cases, it may be necessary to take interim measures pending final resolution of the research misconduct allegation. These interim measures could include actions to protect human subjects or to preserve federal or other sponsor funds (including suspension of the research at issue), or other appropriate steps. In such cases, the appropriate University official, in consultation with the Office of the General Counsel, will determine whether interim measures are needed and what measures are appropriate under the circumstances.

##### **4. Conflict of Interest**

The integrity of the process will be maintained by disclosure and evaluation of any potentially prejudicial conflict of interest. Individuals judged by the appropriate University official to have a conflict of interest that would jeopardize the credibility of the inquiry or investigation will not be assigned decision-making roles in the process.

##### **5. Access to Research Records**

In accordance with University policies and Standard Practice Guides, during its review of an allegation of research misconduct and other allegations regarding the conduct of research and scholarship, as described above, the University may access and take custody of all records, whether physical or electronic, that are generated in the course of the research or scholarship and that may be relevant to its review of the allegation, regardless of where the records are stored.

##### **6. Modifications to Procedures**

Under certain circumstances, including cases in which the respondent admits responsibility, the RIO, in consultation with the appropriate University officials, and, if needed, federal oversight agencies, may consider whether to modify or eliminate any of the procedural stages of the process set forth below.

#### **F. Review of Reported Allegations and Sequestration of Evidence**

The review of allegations may have three sequential stages: (1) preliminary assessment to assess whether the allegation meets the University of Michigan's definition of research misconduct, as set forth in SPG 303.03; (2) an inquiry to determine whether the allegation warrants further formal investigation; and (3) when warranted, a formal investigation to thoroughly examine and evaluate all relevant facts to assess the validity of the allegation. Generally, the RIO will oversee the review process to ensure that



these procedures are followed in a manner that is fair and unbiased. In cases in which the respondent is a faculty member, the Office of the Vice President for Research will consult with the Office of the Provost to determine whether and how that office would like to be involved in the review of the research misconduct allegation.

Initial sequestration of evidence may occur at any time after allegations are received. The RIO will take all reasonable and practicable steps to obtain custody of relevant research records and evidence, as soon as feasible, and store them in a secure manner in accordance with the University policies outlined in Section III.A of the Standard Practice Guide 601.11. All data and records that could be relevant to the University's review of the allegation will be sequestered by the RIO. Sufficiently detailed documentation will be kept to permit later assessment of the adequacy of the process by the RIO. (This is particularly important in those instances in which the Vice President for Research determines that a formal investigation is not warranted). The documentation will be kept in a secure manner.

Different academic disciplines may have different forms of research records, both physical and electronic. Examples of research records include, but are not limited to, the following: research proposals; laboratory records, both physical and electronic, including lab notebooks; progress reports; theses; abstracts; oral presentations; internal reports; manuscripts and publications; notes; correspondence including emails; videos; biological materials; equipment use logs; laboratory procurement records; certifications; and records related to the planning, conduct, management, and reporting of human or animal subject research.

**1. Preliminary Assessment**

Upon receipt of a research misconduct allegation, the RIO will assess the allegation to determine whether, if taken as true, it falls within the University of Michigan's definition of research misconduct, such that the policy stated in Standard Practice Guide 303.03 applies. If so, the RIO may continue to the next step in the process, which is an inquiry. Situations that are determined by the RIO not to involve research misconduct, even if taken as true, may be referred to other administrative channels, as appropriate.

**2. Inquiry**

**a. Purpose**

An inquiry is information-gathering and initial fact-finding to determine whether the allegation or apparent instance of misconduct has substance and warrants a formal investigation. It is intended to separate serious allegations deserving further formal investigation through this process from trivial, frivolous, unjustified, or clearly mistaken allegations.

**b. Notification to Respondent**

Upon initiation of an inquiry, the respondent will be informed of the allegation(s) and given an opportunity to respond to them.

**c. Inquiry Process**

The RIO may conduct the inquiry or may assign an individual or individuals without conflicts of interest to conduct the inquiry. In rare cases, if relevant expertise is lacking within the University, the RIO may seek the assistance of an external expert. The RIO will consult with the Office of the General Counsel prior to consulting with an external expert. Typically, the inquiry will include gathering and review of relevant information and may include interviews with the complainant(s), respondent(s), and other witnesses, as deemed appropriate.

**d. Inquiry Report**

The individual(s) appointed to conduct the inquiry will prepare a written report. The report will include a statement of the allegation; a description of the evidence reviewed; summaries of the relevant interviews, if any; and the conclusions of the inquiry regarding whether there is sufficient evidence to warrant a formal investigation.

**e. Inquiry Report Review and Actions**

If the inquiry recommends that a formal investigation be pursued, the respondent will be provided the opportunity to comment on the inquiry report and any such comment will become part of the record. If the report of the inquiry recommends that a formal investigation is not warranted, then no comments will be sought.

The report of the inquiry, along with any written comments on the report received from the respondent, will be provided to the Vice President for Research.

If the Vice President for Research concurs that an investigation is warranted, (s)he will decide whether additional notification (e.g., to the appropriate Dean or Director), if any, is necessary, and the RIO will convene the research misconduct investigation.



If the inquiry does not proceed to a formal investigation, the RIO will inform any persons involved in the inquiry to whom the identity of the respondent was disclosed by the University that the inquiry did not produce sufficient evidence to warrant formal investigation.

### 3. Investigation

#### a. Purpose

An investigation is the formal examination and evaluation of all relevant facts by a committee of knowledgeable faculty or, as needed, other individuals to determine if the preponderance of evidence supports the conclusion that research misconduct has taken place.

#### b. Selection of the Investigation Committee

Upon determining that a formal investigation is warranted, the RIO will appoint an investigation committee, the composition and size of which will be determined by the RIO. The appointed committee must have the necessary and appropriate expertise to carry out a thorough, formal investigation and authoritative evaluation of the relevant evidence. The committee members must not have any personal, professional, or financial conflicts of interest with either the respondent, the complainant, or witnesses. The investigation committee should include at least one faculty member who is an expert in the field of research that gave rise to the allegation and may, if necessary, also include one or more such experts from outside the University. The RIO will consult with the Office of the General Counsel prior to consulting with an external expert.

#### c. Notification to Respondent

The RIO will inform the respondent of the initiation of the formal investigation, the composition of the investigation committee, and the charge to that committee. If the respondent has concerns that any committee member has a conflict of interest, the respondent can identify the basis for those concerns to the RIO, who will review and determine whether a conflict exists such that one or more alternative committee members should be appointed.

#### d. Charge to the Investigation Committee

The Vice President for Research will provide the investigation committee with the charge, which will include: (1) the purpose of the formal investigation; (2) copies of the allegations and the inquiry report; (3) responsibilities of the investigation committee, as set forth below; (4) the requirements needed to support a finding of research misconduct; and (5) the expected timeframe for formal investigation (consistent with applicable regulatory requirements, if any). The committee will also be provided with a copy of SPG 303.03 and its associated procedures.

#### e. Responsibilities of the Investigation Committee

The Committee will gather evidence and promptly reach a determination of whether research misconduct has occurred. The investigation will be completed within 120 days of the initial meeting of the committee, unless additional time is required. The committee's determination of research misconduct may also include recommended sanctions (e.g., reprimand, demotion, or discharge) or other actions appropriate for resolution of the matter.

During the formal investigation, every reasonable effort will be made to protect the confidentiality of the respondent(s), the complainant(s), and any witnesses, as set forth in Section E.1. However, at this stage, the respondent will normally be entitled to know the identity of all witnesses, if any, who will be called by the investigation committee. Cases that depend solely upon the observations or statements of the complainant may be unable to proceed without the involvement of that individual, or the ability to review may be severely limited; other cases that can rely on documentary evidence may permit the complainant to remain uninvolved without compromising the investigation.

#### f. Rights of the Respondent at Respondent's Interview

When the respondent is interviewed by the committee, the respondent may be accompanied by an advisor, who may be an attorney. The advisor's role (whether an attorney or not) will be limited to advising the respondent. The advisor may not address the committee or any witnesses. If counsel is present with the respondent, the Office of the General Counsel will likewise be asked to be present at the meeting, for the limited purpose of advising the RIO and the investigation committee.

The investigation committee will keep the respondent and the Vice President for Research apprised of any additional allegations or other significant developments during the formal investigation, particularly if those developments might support expansion of the committee's investigative charge.



g. Interviews

The investigation may include interviews, which will be recorded or transcribed. Recordings or, if available, transcripts, will be provided to the interviewed party for comment and will be included, along with any comments received, as part of the formal investigation file. Only the interviewed party, and any advisor (who will be subject to the same strictures set forth in f, above), will be present at the interview with the committee.

h. The Investigation Report

The investigation committee will prepare a written report that summarizes its conclusion regarding whether misconduct occurred and that may recommend sanctions or remediation, as appropriate. The report must describe: the identity of the respondent; the nature of the allegation(s); the specific allegations; funding source(s); methods used to examine the evidence; a list of evidence reviewed; a statement of findings for each allegation specifying whether research misconduct occurred and whether it was committed intentionally, knowingly, or recklessly; the identity of the responsible individual for each finding of research misconduct; any publications that need correction or retraction; any federally funded projects that may have been impacted by the misconduct; any sanctions or remediation that the committee recommends; and comments on the draft investigation report by the respondent.

i. Review of the Investigation Report and Actions

The respondent will be afforded the opportunity to provide written comments on the report. The comments of the respondent on the draft report, if any, must be submitted within 30 days of the date on which the respondent received the draft and such comments will become part of the record.

The investigation committee will submit its report, along with the complete investigatory file, to the Vice President for Research. The Vice President for Research will take the following steps, in consultation with the Office of the Provost and the Office of the General Counsel, as necessary: (1) decide on what actions to take in light of the report, (2) notify the respondent and the dean or director of the decision, (3) decide whether or not the complainant will be notified, and (4) decide if and when external agencies or others, if any, are to be notified, what any such notification will include, and to whom it should be directed.

## G. Resolution and Outcome

When allegations are not confirmed by the inquiry or the investigation, the University will consider, as appropriate and feasible, ways to restore the reputations of persons alleged to have engaged in misconduct, and to protect the positions and reputations of those persons who, in good faith, made allegations.

If the University determines, via the process set forth above, that research misconduct has occurred, the next step(s) depend upon the type of appointment the respondent holds, the seriousness of the misconduct, and the sanctions recommended. The substantive determination of misconduct itself will not, however, be subject to challenge. Below are some examples:

1. **Faculty Cases Covered by Regents' Bylaw 5.09**

If the Vice President for Research accepts the recommendations made by the investigation committee for sanction or dismissal, demotion, or terminal appointment against a faculty member to whom Regents' Bylaw 5.09 applies, the Provost and Executive Vice President for Academic Affairs may initiate the procedures required by the Bylaw.

2. **Faculty Cases in Which Bylaw 5.09 Does Not Apply**

In cases to which Regents' Bylaw 5.09 does not apply, but which are covered by a school or college faculty grievance procedure, the dean will decide on the appropriate outcome, which the faculty member may then challenge through the applicable faculty grievance procedures.

3. **Cases Not Involving Faculty**

In cases not involving faculty, the appropriate University manager and personnel department will initiate procedures required by the University's Standard Practice Guide 201.12, "Discipline", or the appropriate collective bargaining agreement.

Staff members subject to the terms and conditions of collective bargaining agreements should consult the specific provisions in their current agreements dealing with misconduct. Any provision in such agreements that provide greater protections than the provisions stated herein supersede the affected provision of these procedures. Information concerning staff members covered by collective bargaining agreements may be obtained from the appropriate human resources office.



Cases involving students will be referred to the appropriate school or college for disciplinary actions.

4. **Record Retention**

All inquiry and investigatory files and final reports will be maintained and secured by the RIO for a period of seven years from the date of case closure, or for the period required by applicable regulations.

5. **Questions**

Questions regarding these procedures may be directed to the Office of the Vice President for Research or the Office of the General Counsel.