

1 Proposed new

2 **University at Albany Policy and Procedures on Misconduct in Research**
3 **and Scholarship¹**

4 **I. Introduction**

5 **I.A. Policy**

6 Maintenance of high ethical standards in research and scholarship is a central and critical
7 responsibility of the University at Albany (“University”). In keeping with its commitment to
8 integrity in the conduct of research and scholarship, and in compliance with its obligations under
9 federal regulations, the University will promptly, thoroughly, competently, objectively and fairly
10 respond to good faith allegations of misconduct in research or scholarship consistent with and in
11 the time limits prescribed by the procedures set forth herein; ensure that individuals responsible
12 for administering this policy and these procedures or participating in the proceedings governed
13 hereby are free from bias and have no real or apparent conflicts of interest with either the parties
14 involved or the subject matter of any allegation; and protect the rights, reputation and
15 confidentiality of all involved individuals including the Respondent and good faith Complainant.

16 **I.B. Scope**

17 This policy and the associated procedures shall be applicable to faculty, researchers, staff, and
18 students. This policy is not limited to acts of misconduct committed while the individual was
19 affiliated with the University. While Federal regulations require that institutions applying for or
20 receiving federal research funding have an established administrative process for reviewing,
21 investigating, and reporting allegations of research misconduct, the following procedures outline
22 the University's process for responding to allegations of misconduct in all areas of research or
23 scholarship regardless of the funding source or whether the research or scholarship was funded
24 externally or internally. In the case of students, this policy shall not apply to academic course work
25 which is covered under the provisions of academic integrity as contained in the Undergraduate and
26 Graduate Bulletins.

27 **II. Definitions**

28 **A. Allegation** means any written or oral statement or other evidence of possible misconduct
29 in research or scholarship made to an institutional official.

30 **B. Complainant** means a person who makes a good faith allegation of misconduct in
31 research or scholarship.

32 **C. Committee on Ethics in Research and Scholarship (CERS)** is the University Senate
33 committee whose responsibilities include reviewing the implementation of the policy and
34 procedures on institutional responses to allegations of misconduct in research and scholarship
35 and recommend to the University Senate revisions to the policy and procedures as needed.

36 **D. Conflict of Interest** means the real or apparent interference of one person’s interests with

2 ¹ This policy document implements the “*Recommendations and Policy Framework on Responding to Misconduct in Research and*
3 *Scholarship*,” approved by the University Senate on March 17, 2003. A first draft version was completed by the Office of the Vice President for
4 Research in May 2003. The Committee on Ethics in Research and Scholarship completed a substantially revised version in summer 2004. The
5 final version incorporated additional input that was received from the Council on Research, the Vice President for Research, the Office of the
6 University Counsel, and a number of faculty during fall 2004, and passed as Senate bill 0405-02. It has been amended by Senate bills 00405-25,
7 0506-27. After further consultation, the policy was substantially revised by CERS during 2008-2010 and passed as Senate bill 09-10 xxx

37 the interests of another person, where potential bias may occur due to prior or existing personal,
38 professional or financial relationships.

39 **E. Fabrication** means making up results and recording or reporting them.

40 **F. Falsification** means manipulating research materials, equipment, processes, or changing
41 or omitting data or results so that the research is not accurately represented in the research
42 record.

43 **G. Good Faith** means having an honest belief in the truth of one’s allegation, testimony or
44 action. An allegation, testimony or action is not in good faith if it is made with reckless disregard
45 for or willful ignorance of facts that would disprove or negate the allegation, testimony or action,
46 or is dishonest.

47 **H. Inquiry** means information gathering and initial fact-finding to determine whether an
48 allegation or apparent instance of misconduct warrants an investigation.

49 **I. Inquiry Committee** means the committee that is charged with conducting an inquiry into
50 an allegation of misconduct.

51 **J. Institutional Counsel** means legal counsel who represents the University during
52 misconduct proceedings.

53 **K. Institutional Official** means the individual charged with the responsibility of responding
54 to allegations of misconduct and with conducting all misconduct inquiries and investigations.
55 The institutional official in cases of misconduct is the Research Integrity Officer.

56 **L. Investigation** means the formal examination and evaluation of all relevant facts to
57 determine if misconduct has occurred.

58 **M. Investigation Committee** means the committee that is charged with conducting an
59 investigation into an allegation of misconduct.

60 **N. Misconduct** in research and scholarship, hereafter referred to as “Misconduct,” means
61 fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are
62 commonly accepted within the academic community, including artistic expression, for
63 proposing, conducting, reviewing, or reporting research or scholarship and includes
64 misrepresentation of academic credentials or scholarship in proposing or securing awards,
65 grants, or professional recognition. It does not include honest error or disagreements, honest
66 differences in interpretations or judgments of data or disputes among collaborators about relative
67 credit, or informal presentations, such as classroom lectures. For there to be a finding of
68 misconduct it must be determined by a preponderance of the evidence that: (1) there was a
69 significant departure from accepted practices of the relevant research or scholarly community
70 and (2) the misconduct was intentional, knowing or reckless. Reckless means evincing serious
71 disregard of or indifference to accepted scholarly practices although no harm is intended.

72 **O. Office of Research Integrity (ORI)** is the federal office located within the Office of
73 Public Health and Science (OPHS) within the Office of the Secretary of Health and Human
74 Services (OS) in the Department of Health and Human Services (HHS) which oversees and
75 directs **Public Health Service (PHS)** research integrity activities on behalf of the Secretary of
76 Health and Human Services of the U.S. Department of Health and Human Services.

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77 **P. Plagiarism** means the appropriation of another person’s ideas, processes, results or words
78 without giving appropriate credit.

79 **Q. Preponderance of the evidence** means proof by evidence that, compared with that
80 opposing it, leads to the conclusion that the fact at issue is more probably true than not.

81 **R. Research** means a systematic investigation, including research development, testing, and
82 evaluation, designed to develop or contribute to generalizable knowledge.

83 **S. Research Compliance Officer (RCO)** in the Office of Regulatory Research Compliance
84 (ORRC), or designee, is the individual delegated by the VPR with the responsibility to provide
85 administrative support for all research misconduct proceedings and to assist the VPR to respond
86 to allegations of research misconduct. A member of the ORRC shall be present at all inquiry or
87 investigative committee meetings, interviews, and other proceedings regarding allegations of
88 research misconduct.

89 **T. Research Integrity Officer (RIO)** is the institutional official who has responsibilities
90 related to the handling of allegations of research misconduct involving biomedical or behavioral
91 research or research training that is supported by PHS. The VPR is the University’s RIO except
92 in the case of a conflict of interest, when the President, in consultation with Provost, will appoint
93 an RIO for the case.

94 **U. Research Record** means any data, document, computer file, computer storage medium,
95 or any other written or non-written account or object that reasonably may be expected to provide
96 evidence or information regarding the proposed, conducted or reported misconduct that
97 constitutes the subject of an allegation of misconduct. A research record includes, but is not
98 limited to, grant or contract applications, whether sponsored or not; grant or contract progress
99 reports; laboratory notebooks; notes; correspondence; electronic communication; videos;
100 photographs; X-ray or other film; slides; biological materials; computer files and printouts;
101 manuscripts and publications; equipment use logs; laboratory procurement records; animal
102 facility records; and human and animal subject records and protocols.

103 **V. Respondent** means the person against whom an allegation of misconduct in research or
104 scholarship is directed or who is the subject of a misconduct proceeding.

105 **W. Retaliation** means any action that adversely affects the reputation, employment or other
106 institutional status of an individual involved in a misconduct proceeding because the individual
107 has in good faith made an allegation of research misconduct or of inadequate institutional
108 response thereto or has cooperated in good faith in a misconduct proceeding.

109 **X. Scholarship** means original contributions or artistic works which constitute advances or
110 contributions to the individual's discipline or to practice in the field.

111 **Y. VPR** is the UAlbany Vice President for Research.

112 III. Rights and Responsibilities

113 III.A. Office of the Vice President for Research

114 As the RIO of the University, the VPR will have primary responsibility for implementation of the
115 procedures set forth in this policy, and shall ensure that all individuals responsible for
116 administering this policy and these procedures or participating in the proceedings governed

12

117 hereby, including, but not limited to, the VPR and the CERS Chair, are free from bias and have no
 118 real or apparent conflicts of interest with either the parties involved or the subject matter of any
 119 allegation. The VPR will, in consultation with the CERS Chair, appoint the inquiry and
 120 investigation committees and shall take all reasonable steps to ensure an impartial and unbiased
 121 misconduct proceeding to the maximum extent practicable. The VPR shall select, in agreement
 122 with the CERS Chair, those conducting the inquiry or investigation on the basis of expertise that is
 123 pertinent to the matter and, prior to selection, shall screen them for any real or apparent personal,
 124 professional, or financial conflicts of interest with the Respondent, Complainant, potential
 125 witnesses, or others involved in the matter. Any such conflict which a reasonable person would
 126 consider to demonstrate potential bias shall disqualify the individual from selection.

127 To the extent allowed by law, the VPR shall maintain the identity of Respondents and
 128 Complainants securely and confidentially and shall not disclose any identifying information,
 129 except to: (1) those who need to know in order to carry out a thorough, competent, objective, and
 130 fair misconduct proceeding; and (2) the ORI as it conducts its review of the misconduct
 131 proceeding and any subsequent proceedings.

132 To the extent allowed by law, any information obtained during the misconduct proceeding that
 133 might identify the subjects of research shall be maintained securely and confidentially and shall
 134 not be disclosed, except to those who need to know in order to carry out the misconduct
 135 proceeding.

136 The VPR will assist inquiry and investigation committees and all University personnel in
 137 complying with these procedures and with applicable standards imposed by government or
 138 external funding sources. The VPR is also responsible for maintaining files of all documents and
 139 evidence and for the confidentiality and the security of the files.

140 The VPR will report to ORI as required by regulation and keep ORI apprised of any developments
 141 during the course of the inquiry or investigation that may affect current or potential DHHS
 142 funding for the individual(s) under investigation or that PHS needs to know to ensure appropriate
 143 use of Federal funds and otherwise protect the public interest.

144 The VPR, or designee, will, upon receipt of an allegation of misconduct, and in conjunction with
 145 the CERS Chair, make an initial assessment of whether the allegation warrants an inquiry. Upon
 146 receipt of a timely written objection from anyone who has been notified of the membership to any
 147 member of an inquiry or investigation committee on the basis of a real or apparent conflict of
 148 interest, the VPR shall promptly determine, in agreement with the CERS Chair, whether to replace
 149 the challenged member with a qualified substitute. The VPR is responsible for maintaining
 150 confidentiality of the misconduct proceedings. Therefore, the VPR shall not disclose any
 151 information regarding the allegations, the proceedings, or the identity of individuals involved in
 152 the proceedings except as may necessary to the proper discharge of her/his responsibilities
 153 hereunder, or as required by law.

154 **III.B. Respondent**

155 The Respondent shall be entitled to a prompt, thorough, competent, objective, and fair response to
 156 allegations of misconduct. The Respondent will be informed of the allegations if an inquiry is
 157 opened and notified in writing of the final determinations of any inquiry or investigation of the
 158 allegations and the resulting institutional actions, if any. The Respondent may be asked to provide
 159 testimony and will have the opportunity to present evidence to the inquiry committee. The
 160 Respondent will also have the opportunity to be interviewed by and present evidence to the
 161 investigation committee, to review the inquiry and investigation reports, and to have the advice of

162 counsel. Counsel for the Respondent, however, may not actively participate in the misconduct
 163 proceedings. If the Respondent is found not to have engaged in misconduct, the University will
 164 make a diligent effort to restore his or her reputation. The Respondent is expected to cooperate
 165 with the misconduct proceeding, and, except as may be necessary to respond fully to an allegation
 166 of misconduct or as appropriate to restoring his or her reputation after the conclusion of the
 167 proceedings, the Respondent is responsible for maintaining confidentiality of the misconduct
 168 proceedings and the documents and testimony generated as part of the proceedings.

169 If the case becomes public, the University shall defend its decision by making public its process,
 170 its final determination, and its justification for that determination and any subsequent actions.

171 The Respondent may, within five (5) calendar days of receipt of notice of the initiation of an
 172 inquiry or investigation, submit to the VPR or the CERS Chair a written objection that the VPR or
 173 the CERS Chair or any appointed member of an inquiry or investigation committee has a real or
 174 apparent conflict of interest and the basis thereof. (See IV.B.1)

175 The Respondent may consult with the CERS chair about procedural concerns at any point in the
 176 proceedings.

177 **III.C. Complainant**

178 The Complainant may be asked to provide testimony and will have the opportunity to present
 179 evidence to the inquiry committee. The Complainant will ordinarily have an opportunity to be
 180 interviewed by the inquiry and investigation committees, to review his/her allegations or
 181 testimony as contained in the inquiry and investigation reports, to be informed of the results of the
 182 inquiry and investigation and of the final determination, and to be protected from retaliation.

183 The Complainant is expected to make allegations in good faith and fully cooperate with the
 184 misconduct proceeding. The Complainant is responsible for maintaining confidentiality of the
 185 misconduct proceedings and of the documents and testimony generated as part of the proceedings.
 186 Therefore, the Complainant shall not disclose any information regarding the allegations, the
 187 proceedings, or the identity of individuals involved in the proceedings. After the final
 188 determination the Complainant may, at the discretion of the President, be given access to the full
 189 record of the review process. In the case of federally funded research, confidentiality is governed
 190 by ORI regulations. Otherwise, after the final determination the Complainant is not constrained by
 191 confidentiality regarding his or her allegation or testimony or the final determination.

192 The Complainant may, within five (5) calendar days of receipt of notice of the initiation of an
 193 inquiry or investigation, submit to the VPR or the CERS Chair a written objection that the VPR or
 194 the CERS Chair or any appointed member of the investigation committee (or, if the membership
 195 has been revealed to the Complainant, the inquiry committee) has a real or apparent conflict of
 196 interest and the basis thereof.

197 The Complainant may consult with the CERS chair about procedural concerns at any point in the
 198 proceedings.

199 **III.D. Office of University Counsel**

200 The Office of the University Counsel shall serve as legal advisor to the University, the VPR, the
 201 RCO and the inquiry and investigation committees, as needed. Upon request of the VPR, a
 202 member of the Office of the University Counsel shall attend meetings, interviews, and other
 203 proceedings during the inquiry and/or investigation, but will not actively participate in such
 204 meetings, interviews or other proceedings.

205 **IV. Procedure**

206 Throughout the inquiry and investigation process the confidentiality of information regarding the
 207 Complainant, the Respondent, and other affected individuals will be protected to the maximum extent
 208 possible, consistent with the law, University policy, state and federal regulations, and effective and
 209 efficient proceedings. All members of inquiry and investigation committees and other participants, such
 210 as staff or advisors to the inquiry and investigation committees must observe confidentiality of the
 211 proceedings and any information and documents reviewed as a part thereof. Outside of official contexts,
 212 they must not discuss the matter with the Respondent, Complainant, witnesses, or anyone not authorized
 213 by the Vice President for Research. The Vice President for Research should share information with
 214 other university officials only in exceptional situations or as called for in this policy or SUNY policies.
 215 The President may notify or consult with other university officials as necessary.

216 **IV.A. Allegations of Misconduct**

217 IV.A.1. All members of the University community are expected to report observed, suspected, or
 218 apparent misconduct. All allegations of research misconduct from sources inside or outside
 219 the University will be considered.

220 IV.A.2. Allegations should be directed to the VPR, the RCO, or the CERS Chair. However, any
 221 member of the University community who receives an allegation of misconduct shall
 222 promptly forward it to the VPR. While the University will fully consider oral allegations,
 223 written allegations are ordinarily more useful.

224 IV.A.3. The VPR will promptly and fully inform the CERS Chair of any report or evidence of
 225 possible misconduct that has been received.

226 IV.A.4. If an individual is concerned about possible misconduct or is unsure whether an incident
 227 qualifies as misconduct, he or she may contact the VPR, the RCO or the CERS Chair to
 228 discuss the suspected misconduct informally and confidentially.

229 IV.A.5. To the extent practicable, or as otherwise required by law, the identity of Complainants
 230 who wish to remain anonymous will be kept confidential.

231 IV.A.6. Following receipt of an allegation, the VPR shall review any record of prior allegations,
 232 inquiries, and/or investigations involving the Respondent. Such records may be included in
 233 any further review of the current allegation. If both the VPR and CERS Chair agree that the
 234 allegations are substantially identical to a case that has been the subject of an earlier
 235 investigation, without providing significant new evidence, the allegations shall be dismissed
 236 with reference to the earlier disposition.

237 **IV.B. Preliminary Assessment of Allegations**

238 IV.B.1. In cases where the VPR has a real or apparent conflict of interest, reports of suspected
 239 misconduct will be referred to the RIO designated by the President. In cases where the
 240 CERS Chair has a real or apparent conflict of interest, the Chair of the Senate shall designate
 241 another member of CERS. The designees will then act in the place of the Vice President for
 242 Research and/or the CERS Chair, as applicable, under this policy.

243 IV.B.2. Upon receiving an allegation of research misconduct, the VPR, in consultation with the
 244 CERS Chair, will immediately assess the allegation to determine whether it:

- 245 a) falls within the definition of misconduct in research or scholarship; and
- 246 b) is sufficiently credible and specific so that potential evidence of research
 247 misconduct may be identified.
- 248 c) if relevant, falls within the limitation period (see Section VIII. F).

249 IV.B.3. An inquiry is warranted if an allegation falls within the definition of misconduct as
 250 provided herein and is sufficiently credible and specific so that potential evidence of
 251 misconduct may be identified. If either the VPR or the CERS Chair determines that an
 252 allegation warrants an inquiry, then the VPR shall, within fourteen (14) calendar days of
 253 receipt of an allegation, initiate an inquiry, or as appropriate, an investigation.²

254 IV.B.4. The VPR shall prepare a written record of the decision of whether to initiate an inquiry or
 255 investigation, as the case may be, which shall be made part of the record of the proceeding.

256 IV.B.5. If no inquiry or investigation is initiated, the VPR shall notify the Complainant that
 257 insufficient cause was found to pursue the allegations.

258 **IV.C. Inquiry**

259 IV.C.1. The purpose of an inquiry is to determine whether an allegation warrants an investigation.
 260 An investigation is warranted if the allegation falls within the definition of misconduct in
 261 research and scholarship, and preliminary information-gathering indicates that the allegation
 262 may have substance. The inquiry phase may draw on testimony or written statements of the
 263 Complainant, Respondent, and key witnesses, if necessary, to determine whether there is
 264 sufficient evidence of possible misconduct to warrant an investigation. An inquiry does not
 265 require a full review of all the evidence related to the allegation. The purpose of the inquiry
 266 is not to reach a final conclusion about whether misconduct occurred or who was
 267 responsible. The inquiry shall be completed with sixty (60) calendar days of the appointment
 268 of the inquiry committee.

269 IV.C.2. To initiate an inquiry, the VPR shall:

- 270 a. within ten (10) calendar days of the determination to initiate an inquiry, provide a written
 271 notice to the Respondent which shall include a description of all allegations of research
 272 misconduct made against the Respondent, a list of the members of the inquiry committee,
 273 an explanation and documentation of the University's policies regarding allegations of
 274 misconduct, and which shall inform Respondent of his/her obligations of cooperation and
 275 confidentiality;
- 276 b. take all reasonable and practical steps necessary to obtain custody, inventory, and secure
 277 all original research records and evidence relevant to the allegation at the time or before
 278 the Respondent is notified of an allegation. University students, faculty and staff
 279 including but not limited to the Complainant and Respondent, shall promptly provide all
 280 available records and data, including primary research material identified as relevant to
 281 the allegation. Copies of such records and data will be returned to individuals who supply
 282 the same to the VPR except for materials not amenable to copying. All reasonable steps,
 283 consistent with time constraints and other obligations imposed by federal regulations,
 284 shall be taken to eliminate or minimize any disruption that might be created for ongoing
 285 research efforts by such requirements to produce documentation;
- 286 c. appoint, within ten (10) calendar days after the determination to initiate an inquiry, and in
 287 consultation with the CERS Chair, an inquiry committee consisting of normally three (3),
 288 but not more than five (5) individuals who do not have real or apparent conflicts of
 289 interest in the proceeding. They may be from within or outside the institution. The
 290 inquiry committee, which shall elect its own chair, shall include at least one (1) member
 291 of CERS, but shall not include the CERS Chair or the VPR;
- 292 d. provide a written notice to the Complainant that an inquiry has been initiated, which shall

20 ² Sometimes, however, when there is sufficient evidence already at hand, for example as the result of an audit of a clinical trial, the
 21 University may move directly to the investigation stage. In such instance, the VPR shall prepare a written record of the decision to move directly
 22 to the investigation phase, which shall be made part of the proceeding record.

- 293 include a copy of the University's policies regarding allegations of misconduct and
 294 which shall inform the Complainant of her/his obligations of cooperation, good faith and
 295 confidentiality;
- 296 e. prepare a charge for the inquiry committee that describes the allegations and any related
 297 issues identified during the allegation assessment and that states the purpose of the
 298 inquiry.
- 299 IV.C.3. The Respondent may submit a written objection to any appointed member of the Inquiry
 300 Committee based on bias or conflict of interest within five (5) calendar days of notice.
 301 Upon receipt of such objection the Vice President for Research will within five (5) calendar
 302 days determine in consultation with the CERS Chair whether to replace any challenged
 303 member, and if so determined, appoint a qualified substitute.
- 304 IV.C.4. If the Respondent admits to any material aspect of the allegation(s) of misconduct, he or
 305 she should be asked to sign a statement attesting to the occurrence and the extent of the
 306 misconduct. An admission of misconduct will automatically terminate the inquiry process
 307 and result in the Vice President for Research recommending an investigation to the
 308 President. The investigation is not limited to the admitted misconduct. For federally funded
 309 research, also see V. D.
- 310 IV.C.5. At the inquiry committee's first meeting, the committee will elect a chair and the RCO will
 311 review with the committee the charge as given in IV.C.1, clarifying the difference between
 312 an inquiry and investigation committee, discuss the allegations and any related issues,
 313 review the appropriate procedures for the conduct of the inquiry, answer any questions
 314 raised by the committee, and otherwise assist the committee in the planning and conduct of
 315 the inquiry.
- 316 IV.C.6. The chair of the Inquiry Committee may consult with the VPR or the CERS Chair
 317 regarding the inquiry. Any member of the committee concerned about procedures or process
 318 should first consult with the chair and, if the issue is not resolved, with the VPR or CERS
 319 Chair. In this instance, the VPR will adjudicate the issue in consultation with the chair of the
 320 committee, the committee member, and the CERS Chair.
- 321 IV.C.7. In the conduct of the inquiry, the committee may interview the Complainant, the
 322 Respondent, and other key witnesses if necessary, and examine relevant records and other
 323 evidence. Interviews of all witnesses interviewed by the committee shall be transcribed or
 324 recorded. The committee shall evaluate the testimony and other evidence and shall
 325 determine whether there is sufficient evidence of possible misconduct to warrant an
 326 investigation.
- 327 IV.C.8. The committee shall ordinarily complete its inquiry and submit a final report of its findings
 328 to the VPR within twenty one (21) calendar days of its appointment unless the VPR grants
 329 an extension for good cause. The VPR shall prepare a written record of the decision of
 330 whether to grant an extension which shall be made part of the record of the proceeding. The
 331 VPR shall notify the CERS Chair, the Respondent, and the Complainant of the reasons for
 332 any delay.
- 333 IV.C.9. The committee shall prepare and submit to the VPR and the CERS Chair an inquiry report
 334 that includes: the name and title of the committee members and experts, if any, the
 335 allegations, the sponsor support, if any, a summary of the inquiry process used, a list of the
 336 evidence reviewed, summaries of any interviews, a description of the evidence in sufficient
 337 detail to demonstrate whether an investigation is warranted, and the committee's
 338 determination as to whether an investigation is recommended and whether any other actions
 339 should be taken if an investigation is not recommended.

340 IV.C.10. The VPR shall, within five (5) calendar days of receipt of the report from the committee,
 341 provide the Respondent with a copy of the report for comment and rebuttal, and will provide
 342 the Complainant with the inquiry committee's recommendation and the Complainant's
 343 allegation and testimony as contained in the report. Within fourteen (14) calendar days of
 344 their receipt of the report or the portions thereof as the case may be, the Respondent and the
 345 Complainant may provide their comments to the committee. The comments shall be made
 346 part of the record of the proceeding, and the committee may attach an addendum to its report
 347 based upon the comments as appropriate. The Respondent will be provided with a copy of
 348 the addendum.

349 IV.C.11. Within ten (10) calendar days of receipt of comments on the report by the Complainant
 350 and Respondent, the committee shall submit a final report along with a copy of the
 351 proceeding record of the proceeding to the VPR who, in turn, shall promptly submit the
 352 report and proceeding record to the University President and the CERS Chair.

353 IV.C.12. The University President will, within ten (10) calendar days of receipt of the final inquiry
 354 report and proceeding record, make a final determination, in writing, of whether the findings
 355 of the committee provide sufficient evidence of possible misconduct to justify conducting an
 356 investigation. The President may also return the report to the inquiry committee with a
 357 request for further information or analysis. In such event, the President's reasons therefore
 358 shall be set forth in writing and included in the proceeding record. The time for the
 359 President's determination hereunder may be extended by the President for good cause and
 360 the reason therefore recorded in writing in the proceeding record. If the President does not
 361 concur with the inquiry committee, the president shall consult with the inquiry committee
 362 and with CERS before finalizing the decision, providing CERS with adequate
 363 documentation of the case. The President's decision marks the end of the inquiry which is to
 364 be completed within sixty (60) days, as stated (IV.C.1.).

365 IV.C.13. The inquiry is completed when the President makes the determination of whether the
 366 findings of the committee provide sufficient evidence of possible misconduct to justify
 367 conducting an investigation. The VPR shall thereafter notify the Respondent and the
 368 Complainant in writing of the President's determination, and shall notify the CERS Chair.

369 IV.C.14. If relevant, the VPR, in consultation with the chair of CERS, will determine whether the
 370 Complainant's report of suspected misconduct was made in good faith, and proceed as noted
 371 in section VIII D.

372 **IV.D. Investigation**

373 IV.D.1. The purpose of the investigation is to explore the allegations of misconduct in detail, to
 374 examine the evidence in depth, and to determine specifically whether the Respondent has
 375 committed misconduct. The investigation may also determine whether there are additional
 376 instances of possible misconduct that would justify broadening the scope beyond the initial
 377 allegations.

378 IV.D.2. To initiate an investigation, the VPR shall:

379 a) within ten (10) calendar days of the determination to initiate an investigation, provide a
 380 written notice to the Respondent which shall include a description of all allegations of
 381 research misconduct made against the Respondent, a copy of the inquiry report and
 382 proceeding record, the President's determination, a list of the members of the
 383 investigation committee, an explanation and documentation of the University's policies
 384 regarding allegations of misconduct, and a description of the Respondent's obligations of
 385 cooperation and confidentiality.

- 386 b) take all reasonable and practical steps necessary to obtain custody, inventory, and secure
 387 any additional original research records and evidence relevant to the allegation at the time
 388 or before the Respondent is notified that an investigation has been initiated. The need for
 389 additional sequestration of records may occur for any number of reasons, including the
 390 institution's decision to investigate additional allegations not considered during the
 391 inquiry stage or the identification of records during the inquiry process that had not been
 392 previously secured. University students, faculty and staff including, but not limited to, the
 393 Complainant and Respondent, shall promptly provide all available records and data,
 394 including primary research material identified as relevant to the allegation. Copies of
 395 such records and data will be returned to individuals who supply the same to the VPR
 396 except for materials not amenable to copying. All reasonable steps, consistent with time
 397 constraints and other obligations imposed by federal regulations, shall be taken to
 398 eliminate or minimize any disruption that might be created for ongoing research efforts
 399 by such requirements to produce documentation;
- 400 c) appoint within ten (10) calendar days after the determination to initiate an investigation,
 401 and in consultation with the CERS Chair, an investigation committee, which may include
 402 one or more members of the inquiry committee, consisting of no fewer than three (3)
 403 individuals who do not have real or apparent conflicts of interest in the proceeding and
 404 have the necessary expertise to evaluate the evidence and issues related to the allegation,
 405 interview the principals and key witnesses, conduct the inquiry, and they may be
 406 individuals from within or outside the institution. The investigation committee, which
 407 shall elect its own chair, shall include at least one (1) member of CERS, but shall not
 408 include the CERS Chair or the VPR. The Respondent may submit a written objection to
 409 any appointed member of the Investigation Committee based on perceived bias or
 410 conflict of interest within 10 calendar days of notice. Upon receipt of such an objection
 411 the VPR will promptly determine in consultation with the CERS Chair whether to replace
 412 any challenged member(s) and if so determined will appoint a qualified substitute;
- 413 d) provide a written notice to the Complainant that an investigation has been initiated which
 414 shall include a description of the Complainant's obligations of cooperation, good faith
 415 and confidentiality and a list of the committee membership. The Complainant may
 416 submit a written objection to any appointed member of the Investigation Committee
 417 based on perceived bias or conflict of interest within 10 calendar days of notice. Upon
 418 receipt of such an objection the VPR will promptly determine, in agreement with the
 419 CERS Chair, whether to replace any challenged member(s), and if so determined will
 420 appoint a qualified substitute;
- 421 e) prepare a charge for the investigation committee that describes the allegations and any
 422 related issues identified during the inquiry and that states that the purpose of the
 423 investigation.

424 IV.D.3. The investigation, including the final determination of the President must be completed
 425 within 120 calendar days of its initiation unless circumstances clearly warrant a longer
 426 period. If the investigation takes longer than 120 calendar days to complete, the Respondent
 427 and Complainant shall be notified of the delay and the record of the investigation shall
 428 include documentation of the reasons for exceeding the 120-day period

429 IV.D.4. At the investigation committee's first meeting, the committee will elect a chair and the
 430 RCO will review the charge with the committee, discuss the allegations and any related
 431 issues, review the appropriate procedures for the conduct of the investigation, answer any
 432 questions raised by the committee and otherwise assist the committee in the planning and
 433 conduct of the investigation.

- 434 IV.D.5. In the conduct of the investigation, the committee ordinarily will interview the
435 Complainant, the Respondent and other key witnesses and examine relevant records and
436 other evidence. Interviews of all witnesses interviewed by the committee shall be transcribed
437 or recorded. The committee shall evaluate the testimony and other evidence and shall
438 determine whether, based upon a preponderance of the evidence, misconduct has occurred.
- 439 IV.D.6. The chair of the Investigation Committee, the Complainant, and the Respondent may
440 consult with the VPR or the CERS Chair regarding the investigation. Any member of the
441 committee concerned about procedures or process should first consult with the chair and, if
442 the issue is not resolved, with the VPR or CERS Chair. In this instance, the VPR will
443 adjudicate the issue in consultation with the chair of the committee, the committee member,
444 and the CERS Chair.
- 445 IV.D.7. The committee shall ordinarily complete its investigation and submit a final report of its
446 findings to the VPR within sixty (60) calendar days of its appointment unless the VPR
447 grants an extension of time for good cause. The VPR shall prepare a written record of the
448 decision of whether to grant an extension which shall be made part of the record of the
449 proceeding. The CERS Chair, the Complainant, and the Respondent will be notified of the
450 reasons of the delay.
- 451 IV.D.8. The committee shall prepare and submit to the VPR an investigation report that shall
452 include: a description of the policies and procedures under which the investigation was
453 conducted; a description of how and from whom information relevant to the investigation
454 was obtained; a statement of the findings of the investigation, including whether or not
455 misconduct has been found for each allegation, and an explanation of the basis for the
456 finding, recommendations of the committee for correcting the public record, and a
457 description of any recommended sanction and/or administrative actions to be taken by the
458 institution. The report also shall include the actual text or an accurate summary of the
459 testimony of any individual(s) found to have engaged in misconduct.
- 460 IV.D.9. The VPR shall, within five (5) calendar days of receipt of the report from the committee,
461 provide the Respondent with a copy of the report for comment and rebuttal, and will provide
462 the Complainant with the Complainant's allegation and testimony as contained in the report.
463 Within fourteen (14) calendar days of their receipt of the report or the portions thereof as the
464 case may be, the Respondent and the Complainant will provide their comments to the
465 committee. The comments shall be made part of the record of the proceeding, and the
466 committee may attach an addendum based upon the comments as appropriate. The
467 Respondent will receive a copy of the addendum.
- 468 IV.D.10. Within ten (10) calendar days of receipt of comments on the report by the Complainant
469 and Respondent, the committee shall submit a final report along with a copy of the
470 proceeding record to the VPR who, in turn, shall promptly submit the report and proceeding
471 record to the University President, and the CERS Chair along with a written
472 recommendation.
- 473 IV.D.11. The University President will, within ten (10) calendar days of receipt of the final
474 investigation report and proceeding record, make a final determination, in writing, based
475 upon a preponderance of the evidence, whether to accept the investigation report, its
476 findings, and the recommended institutional action. The President may also return the report
477 to the investigation committee with a request for further fact-finding or analysis. The time
478 for such determination may be extended by the President for good cause, and the reason
479 therefore shall be recorded in writing in the proceeding record.
- 480 IV.D.12. If the President does not concur with the final conclusions of the Investigation

481 Committee, the President shall consult with the investigation committee and CERS before
 482 finalizing the determination, providing CERS with adequate documentation of the case.
 483 The investigation is completed when the President makes a determination, based upon a
 484 preponderance of the evidence, of whether to accept the investigation report, its findings and
 485 the recommended institutional action. The VPR shall thereafter notify the Respondent and
 486 the Complainant in writing of the President's determination, and shall notify such other
 487 institutional officials of the determination as may be appropriate.

488 IV.D.13. Within fourteen (14) calendar days of receipt of written notification of a finding of
 489 misconduct, the Respondent may appeal to the President. The appeal must be in writing. If
 490 the President elects to vacate the determination, the President shall consult with the
 491 investigation committee and CERS before issuing a decision, providing CERS with
 492 adequate documentation of the case. The President shall issue a decision within thirty (30)
 493 calendar days, affirming or vacating the determination of research misconduct, with the
 494 option to reopen the investigation.

495 IV.D.14. Certain notifications shall occur, as stated in VI.

496 IV.D.15. The VPR will undertake appropriate diligent efforts to restore the reputation of the
 497 Respondent if an allegation of misconduct is unsubstantiated, and to protect the
 498 Complainant, as noted in section VIII B and C.

499 **IV.E. Institutional Administrative Actions**

500 IV.E.1. The University will take appropriate administrative actions against a Respondent when an
 501 allegation of misconduct against them has been substantiated. If the President determines
 502 that the alleged misconduct is substantiated by the findings, he or she will decide on the
 503 appropriate actions to be taken, after consultation with the CERS Chair and with such
 504 institutional officials as he or she deems appropriate. The President shall reveal to the
 505 Investigation Committee and to the Chair of CERS any additional information relevant to
 506 the case or the Respondent as might be required for effective consultation. Disciplinary
 507 sanctions must be commensurate with the nature/severity of the proven allegations. Such
 508 administrative actions may include, but shall not be limited to:

- 509 a) appropriate steps to correct the research record;
- 510 b) public disclosure
- 511 c) counseling and/or disciplinary action in accordance with the provisions of the applicable
 512 collective bargaining agreement;
- 513 d) withdrawal or correction of all pending or published abstracts and papers emanating from
 514 the research where research misconduct was found;
- 515 e) removal of the responsible person from the particular project;
- 516 f) special monitoring of future work; and
- 517 g) restitution of funds as appropriate.
- 518 h) an entry to the personnel file

519
 520 IV.E.2. The University will take appropriate administrative actions against any person found to
 521 have violated the confidentiality provisions of this policy. Such administrative actions may
 522 include, but shall not be limited to, counseling and/or disciplinary action in accordance with
 523 the provisions of the applicable collective bargaining agreement.

524 **V. Reporting to ORI**

525 **A.** A decision to initiate an investigation involving allegations of misconduct involving

526 federally-funded research and proposals submitted to federal agencies for research funding,
 527 must be reported in writing to the Director, ORI, on or before the date the investigation
 528 begins and to the Research Foundation of the State University of New York. At a
 529 minimum, the notification should include the name of the person(s) against whom the
 530 allegations have been made, the general nature of the allegation as it relates to the federal
 531 sponsor's definition of research misconduct, and the sponsor applications or grant
 532 number(s) involved. The VPR must also be notified of the final outcome of the
 533 investigation and must be provided with a copy of the investigation report. Any significant
 534 variations from the provisions of the institutional policies and procedures should be
 535 explained in any reports submitted to the sponsor.

- 536 **B.** If the University intends to terminate an inquiry or investigation for any reason without
 537 completing all relevant requirements of the sponsor's regulation, the VPR will submit a
 538 report of the planned termination to the sponsor, including a description of the reasons for
 539 the proposed termination.
- 540 **C.** If the University determines that it will not be able to complete the investigation in 120
 541 days, the VPR will submit to the sponsor a written request for an extension that explains
 542 the delay, reports on the progress to date, estimates the date of completion of the report,
 543 and describes other necessary steps to be taken. If the request is granted, the VPR will file
 544 periodic progress reports as requested by the ORI.
- 545 **D.** When Federal funding or applications for funding are involved and an admission of
 546 research misconduct is made, the VPR will contact ORI for consultation and advice.
 547 Normally, the individual making the admission will be asked to sign a statement attesting
 548 to the occurrence and extent of misconduct. When the case involves external funds, the
 549 institution cannot accept an admission of research misconduct as a basis for closing a case
 550 or not undertaking an investigation without prior approval from ORI.
- 551 **E.** The Research Integrity Officer will notify ORI at any stage of the inquiry or investigation
 552 if:
- 553 1. There is an immediate health hazard involved;
 - 554 2. There is an immediate need to protect Federal funds or equipment;
 - 555 3. There is an immediate need to protect the interests of the person(s) making the
 556 allegations or of the individual(s) who is the subject of the allegations as well as his/her
 557 co-investigators and associates, if any;
 - 558 4. It is probable that the alleged incident is going to be reported publicly; or
 - 559 5. The allegation involves a public health sensitive issue, *e.g.* a clinical trial; or
 - 560 6. There is a reasonable indication of possible criminal violation. In this instance, the
 561 institution must inform the sponsor within 24-hours of obtaining that information.

562 VI. Other Notifications

563 In consultation with CERS and with the recommendation of the VPR, the President shall make the final
 564 determination as to which concerned parties should be notified of the President's final determination. In
 565 addition to the Respondent and Complainant, typically this would include the Investigation Committee
 566 members, Inquiry Committee members, the Research Foundation of SUNY (the Office of the General
 567 Counsel and Secretary) and all persons known to have knowledge of the investigation (i.e., any one who
 568 has been interviewed or otherwise informed of the allegations). Furthermore, in case there is a finding
 569 of misconduct, the VPR shall notify the Provost or equivalent official. In addition, appropriate members
 570 of the research and scholarly community should be informed, so as to correct the public record. The
 571 University will also notify relevant federal or other external granting agencies and partnering
 572 institutions, where applicable and in accordance with regulatory requirements. After the final

573determination the Complainant may, at the discretion of the President, be given the full record of the
574review process or the sanction, as well as the final determination. The President shall confer with the
575CERS chair before denying access to the full record or sanction.

576**VII. Annual Report to CERS**

577The VPR shall provide an annual report to CERS with information on misconduct proceedings. The
578report will contain no specific information on individuals, but will contain sufficient information to
579inform a substantive conversation in CERS about the policy and procedural issues that may have arisen
580in the course of the review process. The report shall also contain a summary of training of CERS
581members and of University researchers. Prior year reports shall be provided to the new CERS
582committee. The outgoing CERS chair and VPR shall provide to the new CERS chair all information
583available to the outgoing chair about all ongoing cases.

584**VIII. Other Considerations**

585 **VIII.A. Termination of Institutional Employment or Resignation Prior to Completing Inquiry**
586 **or Investigation**

587 VIII.A.1. The termination of the Respondent's institutional employment, by resignation or
588 otherwise, before or after an allegation of possible misconduct has been reported, will not
589 preclude or terminate the misconduct procedures.

590 VIII.A.2. If the Respondent, without admitting to the misconduct, elects to resign his or her
591 position prior to the initiation of an inquiry, but after an allegation has been reported, or
592 during an inquiry or investigation, the inquiry or investigation will proceed.

593 VIII.A.3. If the Respondent refuses to participate in the process after resignation, the committee
594 will use its best efforts to reach a conclusion concerning the allegations, noting in its report
595 the Respondent's failure to cooperate and its effect on the committee's review of all the
596 evidence.

597 **VIII.B. Restoration of the Respondent's Reputation**

598 If the institution finds no misconduct and ORI concurs, after consulting with the Respondent, the
599 VPR will undertake reasonable efforts to restore the Respondent's reputation. Depending on the
600 particular circumstances, the VPR should consider notifying those individuals aware of or
601 involved in the investigation of the final outcome, publicizing the final outcome in forums in
602 which the allegation of scientific misconduct was previously publicized, or expunging all
603 reference to the scientific misconduct allegation from the Respondent's personnel file. Any
604 institutional actions to restore the Respondent's reputation must first be approved by the President.

605 **VIII.C. Protection of the Whistleblower and Others**

606 VIII.C.1. Regardless of whether the institution or ORI, as the case may be, determines that
607 scientific misconduct occurred, the VPR will undertake reasonable efforts to protect
608 Complainants who made allegations of misconduct in good faith and others who cooperate
609 in good faith with inquiries and investigations of such allegations.

610 VIII.C.2. Upon completion of an investigation, the President will determine, after consulting with
611 the Complainant, what steps, if any, are needed to restore the position or reputation of the
612 Complainant. The VPR is responsible for implementing any steps the President approves.
613 The VPR will also take appropriate steps during the inquiry and investigation to prevent any
614 retaliation against the whistleblower.

615 **VIII.D. Allegations Not Made in Good Faith**

616 If relevant, the President will determine whether the Complainant’s allegations of misconduct
617 were made in good faith. If an allegation was not made in good faith, the President will determine
618 whether any administrative action should be taken against the Complainant. Such administrative
619 actions may include, but shall not be limited to, counseling and/or disciplinary action in
620 accordance with the provisions of the applicable collective bargaining agreement.

621 **VIII.E. Interim Administrative Actions**

622 Institutional officials will take interim administrative actions, as appropriate, to protect Federal
623 funds and ensure that the purposes of the Federal financial assistance are carried out.

624 **VIII.F. Limitations Period**

625 An investigation of allegations of misconduct regarding scholarly contributions or research data
626 disseminated to the scholarly community more than six (6) years before the date of the allegation
627 will not be pursued if the Inquiry determines that a thorough and fair investigation would require
628 unpublished data and/or research records that are more than six years old. This limitation does not
629 apply if the University, in consultation with the funding agency, if any, determines that the alleged
630 misconduct, if it occurred, could possibly have a substantial adverse effect on the health or safety of
631 the public. In cases involving Public Health Service support, the applicable federal regulations will be
632 followed.

633 **IX. Record Retention**

634 After completion of a case and all ensuing related actions, the VPR will prepare a complete file,
635 including the records of any inquiry or investigation and copies of all documents and other materials
636 furnished to the VPR or committees. The VPR will keep the file after completion of the case to
637 permit later assessment of the case. ORI or other authorized DHHS personnel will be given access to
638 the records upon request.
639