

UNIVERSITY OF SOUTHERN MAINE  
Office of Research Integrity & Outreach

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## 1. **General Policy:**

The University of Southern Maine (USM) is committed to the highest ethical standards in research. The primary responsibility for honesty in the pursuit and dissemination of knowledge in research activities rests with Institutional Members directly involved in such activities. Anyone found guilty of Research Misconduct is subject to disciplinary action by USM. Those Institutional Members engaged in research and other professional activities should be familiar with regulations and ethics guidelines that govern their disciplines. Institutional Members should disclose immediately what they believe to be Research Misconduct to the Research Integrity Officer (RIO).

## 2. **Definitions:**

- 2.1. **“Accepted practices of the relevant research community”** means those practices established by federal research misconduct regulations (e.g. 42 CFR part 93), as well as commonly accepted professional codes or norms within the overarching community of researchers and institutions that apply for and receive federal funding.
- 2.2. **“Advisor”** means a member of the USM community secured by a Complainant to serve as an advisor to the Complainant in Misconduct Proceedings arising from an Allegation made by the Complainant.
- 2.3. **“Allegation”** means a disclosure of possible Research Misconduct through any means of communication and brought directly to the attention of the Research Integrity Officer (RIO) or to any University Official.
- 2.4. **“Assessment”** means a consideration of whether an allegation of research misconduct appears to fall within the definition of research misconduct; appears to involve federally-funded research or research training; and is sufficiently credible and specific so that potential Evidence of Research Misconduct may be identified. The assessment only involves the review of readily accessible information relevant to the allegation.
- 2.5. **“Bad Faith”** means a material and demonstrable failure to meet the standards for Good Faith set forth herein as a Complainant, a witness, a Review Panel member, an Inquiry Panel member, an Investigative Committee member, the Responsible Administrator, or the RIO. The context in which actions have occurred is a relevant and important factor to be taken into account in determining whether an individual has acted in Bad Faith.
- 2.6. **“Complainant”** means an individual who in good faith makes an allegation of research misconduct.
- 2.7. **“Conflict of Interest”** means any personal, professional, or financial relationship that influences or reasonably would be perceived to influence the impartial performance of a duty assigned under these Procedures by any of the following: a member of an Inquiry Panel, Investigative Committee, or a review panel, witnesses, the Responsible Administrator, the RIO, the Provost or the President.
- 2.8. **“Counsel”** means lay or legal counsel secured by a Respondent to serve as an advisor to the Respondent in Misconduct Proceedings against the Respondent.
- 2.9. **“Day”** means calendar day unless otherwise specified. If a deadline falls on a Saturday, Sunday or Federal holiday, the deadline will be extended to the next day that is not a Saturday, Sunday, or Federal holiday.
- 2.10. **“Deciding Official (DO)”** means the University’s Provost and Vice President for Academic Affairs. This person will not be the same as the Research Integrity Officer. In circumstances where the DO has a conflict of interest, the Provost may assign another Institutional Member to act as the DO.
- 2.11. **“Evidence”** means anything offered or obtained during a Misconduct Proceeding that tends to prove or disprove the existence of an alleged fact. Evidence includes documents, whether in

- hard copy or electronic form, information, tangible items, and testimony. This could include, depending on the Allegation, materials such as:
- 2.11.1. proposals, grant applications, and comments thereon,
  - 2.11.2. relevant research data and related records,
  - 2.11.3. laboratory notebooks and computer files,
  - 2.11.4. telephone logs and memos of calls,
  - 2.11.5. correspondence, or
  - 2.11.6. manuscripts, posters, publications, and tapes of oral presentations.
- 2.12. **“Fabrication”** means making up data or results and recording or reporting them. Fabrication excludes synthetic data or test data used for testing or validation.
  - 2.13. **“Falsification”** means manipulating Research materials, equipment, or processes, or changing or omitting Research data or results, such that Research is not accurately represented in the Research Record.
  - 2.14. **“Good Faith”** as applied to a Complainant or witness, means having a reasonable belief in the truth of one’s Allegation or testimony based on the information known to the Complainant or witness at the time. An Allegation or cooperation with a Misconduct Proceeding is not in Good Faith if with knowledge of reckless disregard for information that would negate the Allegation or testimony. Good Faith as applied to an Institutional Member or committee member, means cooperating with the Misconduct Proceeding by impartially carrying out the duties assigned under these Procedures for the purpose of helping USM meet its responsibilities for research integrity. An individual does not act in Good Faith if their acts or omissions during the Misconduct Proceedings are dishonest or influenced by Conflicts of Interest.
  - 2.15. **“Honest Error”** means an accidental or inadvertent mistake made in Good Faith while using a normal degree of care and attention. Honest Error is an exception to the definition of Research Misconduct or an affirmative defense to an Allegation of Research Misconduct in which a Respondent asserts that the questioned conduct resulted from an unintended error rather than Intentional, Knowing, or Reckless distortion of the Research Record. The Respondent carries the burden of establishing that Honest Error (or other affirmative defense such as Difference of Opinion) more likely than not explains the Fabrication, Falsification, or Plagiarism.
  - 2.16. **“Inquiry”** means preliminary information gathering and preliminary fact finding to determine whether an Allegation warrants an Investigation.
  - 2.17. **“Inquiry Panel”** means a group of at least three persons appointed by the Responsible Administrator to conduct an Inquiry. While Inquiry Panels will usually be composed of USM faculty, they may also include persons other than USM faculty when the Responsible Administrator determines that such persons have experience or expertise useful to the Inquiry. The Inquiry Panel shall select one of its members to act as its chairperson.
  - 2.18. **“Institutional Member”** means an individual (or individuals) who is employed by, is an agent of, or is affiliated by contract or agreement with an institution. Institutional Members may include, but are not limited to, officials, tenured and untenured faculty, teaching and support staff, researchers, research coordinators, technicians, postdoctoral and other fellows, students, volunteers, subject matter experts, consultants, attorneys, or employees or agents of contractors, subcontractors, or sub-awardees.
  - 2.19. **“Institutional Record”** comprises: (a) The records that the institution compiled or generated during the Misconduct Proceeding, except records the institution did not consider or rely on. These records include but are not limited to (1) documentation of the assessment as required by § 93.306(c); (2) if an inquiry is conducted, the inquiry report and all records (other than

- drafts of the report) considered or relied on during the inquiry, including, but not limited to, research records and the transcripts of any transcribed interviews conducted during the inquiry, information the respondent provided to the institution, and the documentation of any decision not to investigate as required by § 93.309(c); (3) if an investigation is conducted, the investigation report and all records (other than drafts of the report) considered or relied on during the investigation, including, but not limited to, research records, the transcripts of each interview conducted pursuant to § 93.310(g), and information the respondent provided to the institution; (4) decision(s) by the Deciding Official, such as the written decision from the Deciding Official under § 93.314; (5) the complete record of an internal appeal (see Section 6.22. below) from a finding of Research Misconduct consistent with § 93.315; (b) a single index listing all the research records and evidence that the institution compiled during the Misconduct Proceeding, except records the institution did not consider or rely on; and (c) a general description of the records that were sequestered but not considered or relied on.
- 2.20. **“Investigation”** means the formal development of a factual record and the examination of that record that meets the criteria and follows the procedures of §§ 93.310 through 93.317.
- 2.21. **“Investigative Committee”** means a group of at least three persons appointed by the Responsible Administrator to conduct an Investigation. While Investigative Committees will usually be composed of USM faculty, they may also include persons other than USM faculty when the Responsible Administrator determines that such persons have experience or expertise useful to the Investigation. The Investigative Committee shall select one of its members to act as its chairperson.
- 2.22. **“Intentionally”** means to act with the aim of carrying out the act.
- 2.23. **“Misconduct Proceeding”** means any proceeding under these Procedures related to the review of an Allegation, including Assessments, Inquiries, Investigations, and internal appeals.
- 2.24. **“Knowingly”** means to act with awareness of the act.
- 2.25. **“PHS support”** means PHS funding, or applications or proposals for PHS funding, for biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research or training, that may be provided through funding for PHS intramural research; PHS grants, cooperative agreements, or contracts; subawards, contracts, or subcontracts under those PHS funding instruments; or salary or other payments under PHS grants, cooperative agreements, or contracts.
- 2.26. **“Plagiarism”** means the appropriation of another person's ideas, processes, results or words of another person, without giving appropriate credit.
- 2.26.1. Plagiarism includes the unattributed verbatim or nearly verbatim copying of sentences and paragraphs from another’s work that materially misleads the reader regarding the contributions of the author. It does not include the limited use of identical or nearly identical phrases that describe a commonly used methodology.
- 2.26.2. Plagiarism does not include self-plagiarism or authorship or credit disputes, including disputes among former collaborators who participated jointly in the development or conduct of a research project. Self-plagiarism and authorship disputes do not meet the definition of research misconduct.
- 2.27. **“Preponderance of the Evidence”** means proof by Evidence that, compared with Evidence opposing it, leads to the conclusion that the fact at issue is more likely true than not.
- 2.28. **“Procedures”** means these Procedures Concerning Allegations of Research Misconduct in Research.
- 2.29. **“Questionable Research Practices”** means practices that do not constitute Misconduct or Unacceptable Research Practices but that require attention because they could erode

- confidence in the integrity of Research or Creative Activities.
- 2.30. **“Recklessly”** means to propose, perform, or review research, or report research results, with indifference to a known risk of fabrication, falsification, or plagiarism.
- 2.31. **“Research”** means formal investigation conducted for the purpose of producing or contributing to generalizable knowledge, and the reporting thereof, by (1) a faculty member or other employee of USM as part of his or her non-instructional scholarly activities, or (2) a student in fulfillment of any independent study requirement at USM whose product is intended to be an original scholarly or creative work of potentially publishable quality (including, without being limited to, a master's or doctoral thesis).
- 2.32. **“Research Misconduct”** means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion. A finding of Research Misconduct requires 1) that there be a significant departure from accepted practices of the relevant Research community; and 2) the misconduct be committed Intentionally, Knowingly, or Recklessly; and 3) the Allegation be proved by a Preponderance of the Evidence.
- 2.33. **“Research Record”** means the record of data or results that embody the facts resulting from scientific inquiry. Data or results may be in physical or electronic form. Examples of items, materials, or information that may be considered part of the research record include, but are not limited to, research proposals, raw data, processed data, clinical research records, laboratory records, study records, laboratory notebooks, progress reports, manuscripts, abstracts, theses, records of oral presentations, online content, lab meeting reports, and journal articles.
- 2.34. **“RIO”** means the University’s Research Integrity Officer. The RIO for USM currently is Ross Hickey, Associate Provost for Research Integrity.
- 2.35. **“Respondent”** means a person who is the subject of an Allegation. A Respondent must be an employee of USM or a student at USM, or must have been an employee or a student at the time the Research Misconduct allegedly occurred.
- 2.36. **“Responsible Administrator”** means the administrator who has most immediate responsibility for the Respondent and who is not disqualified from serving as Responsible Administrator by a Conflict of Interest. The RIO shall identify the Responsible Administrator. If the Responsible Administrator is a Dean, she or he may designate a subordinate to act as Responsible Administrator. If the Respondent is a student, the Responsible Administrator shall be the chairperson of the department with which the student is affiliated. If an Allegation involves multiple Respondents, the RIO shall identify an appropriate individual as the Responsible Administrator.
- 2.37. **“Retaliation”** means an adverse action taken against a whistleblower or other individual who has, in good faith, participated in a Misconduct Proceeding (as Complainant, witness, review panel member, Inquiry Panel member, Investigative Committee member, Counsel, Advisor, Responsible Administrator, or RIO) or otherwise cooperated in the review of an allegation, where there is a clear causal link between the participation or cooperation and the adverse action. The context in which an adverse action has occurred, including its materiality, is a relevant and important factor to be taken into account in determining whether it constitutes retaliation.
- 2.38. **“Sponsored Programs”** means Research, training, and instructional projects involving funds, materials, gifts, or other compensation from external entities (including any individual and government agencies) under agreements with the University.
- 2.39. **“Unacceptable Research Practices”** means practices that do not constitute Research Misconduct but that violate applicable laws, regulations, or other governmental requirements,

or USM rules or policies, of which the Respondent had received notice of or of which the Respondent reasonably should have been aware, for proposing, performing, reviewing, or reporting Research.

- 2.40. **“Whistleblower”** means an individual who makes a Good Faith Allegation of Research Misconduct or demonstrates intent to make a Good Faith allegation (or what is perceived to be an allegation) while an Institutional Member of USM when the alleged research misconduct occurred.

### 3. **Scope:**

- 3.1. These Procedures apply to:

3.1.1. A person who, at the time of the alleged research misconduct, held a University appointment or was a graduate student engaged in the design, conduct, or reporting of research, whether or not the research is funded; or

3.1.2. Anyone engaged in the design, conduct, or reporting or research through a Sponsored Program at USM, to the extent of that research.

- 3.2. Except for Research Misconduct in the context of a Sponsored Program, allegations of Research Misconduct by undergraduate students shall be dealt with pursuant to the Code of Student Rights, Responsibilities, and Conduct.

- 3.3. The Deciding Official (DO) may, in consultation with the Research Integrity Officer (RIO), determine that an allegation of Research Misconduct on the part of a graduate student is more appropriately referred to the disciplinary channels provided in the Code of Student Rights, Responsibilities, and Conduct or such other disciplinary process duly established by a campus or academic unit.

- 3.4. This statement of policy and procedures is intended to carry out USM’s responsibilities under the Public Health Service (PHS) Policies on Research Misconduct, 42 CFR Part 93. These policies and procedures do not supersede or establish an alternative to the PHS regulation or any existing regulations for handling research misconduct involving non-PHS supported research. They do not replace the PHS regulation, and in case of any conflict between this document and 42 CFR Part 93, the PHS regulation will prevail. These policies and procedures are intended to enable the University to comply with the requirements of the PHS regulations as the policies and procedures apply to allegations of research misconduct involving:

3.4.1. Applications or proposals for PHS support for biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research or research training.<sup>1</sup>

3.4.2. PHS-supported biomedical or behavioral research.<sup>2</sup>

3.4.3. PHS-supported biomedical or behavioral research training programs.<sup>3</sup>

3.4.4. PHS-supported activities that are related to biomedical or behavioral research or research training, such as, but not limited to, the operation of tissue and data banks or the dissemination of research information.<sup>4</sup>

3.4.5. Research records produced during PHS-supported research, research training, or activities related to that research or research training.<sup>5</sup>

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<sup>1</sup> § 93.102(b)(1).

<sup>2</sup> § 93.102(b)(2).

<sup>3</sup> § 93.102(b)(3).

<sup>4</sup> § 93.102(b)(4).

<sup>5</sup> § 93.102(b)(5).

- 3.4.6. Research proposed, performed, reviewed, or reported, as well as any research record generated from that research, regardless of whether an application or proposal for PHS funds resulted in an awarded grant, contract, cooperative agreement, subaward, or other form of PHS support.<sup>6</sup>
- 3.5. This statement of policy and procedures does not apply to authorship or collaboration disputes. It applies only to allegations of research misconduct that occurred within six years of the date the University or HHS received the allegation, subject to the following exceptions:
  - 3.5.1. The six-year time limitation does not apply if the respondent continues or renews any incident of alleged research misconduct that occurred before the six-year period through the use of, republication of, or citation to the portion(s) of the research record alleged to have been fabricated, falsified, or plagiarized, for the potential benefit of the respondent (“subsequent use exception”). For alleged research misconduct that appears subject to this subsequent use exception, but the University determines is not subject to the exception, the institution will document its determination that the subsequent use exception does not apply and will retain this documentation for the later of seven years after completion of the institutional proceeding or the completion of any HHS proceeding.
  - 3.5.2. The six-year time limitation also does not apply if the Officer of Research Integrity (ORI) or the University, following consultation with ORI, determines that the alleged research misconduct, if it occurred, would possibly have a substantial adverse effect on the health or safety of the public.

#### **4. Responsibility:**

- 4.1. USM has designated the USM Research Integrity Officer (RIO) to establish and implement this Standard Operating Procedure (SOP). The RIO also serves as a liaison between USM and the sponsoring agency and will prepare and submit all reports to the research sponsor.
- 4.2. The RIO shall be free of any real or apparent Conflicts of Interest in any particular case.
- 4.3. If involvement of the RIO in a particular case creates a real or apparent Conflict of Interest with USM's obligation to protect good faith whistleblowers, and the conflict cannot be satisfactorily resolved for that case, the Provost shall appoint a substitute RIO who has no Conflict of Interest.

#### **5. Authorities:**

- 5.1. Federal Regulations.
  - 5.1.1. 42 CFR 50 and 93 applies to all HHS research
  - 5.1.2. Title 42, Part 50, Subpart A of the Code of Federal Regulations - 42 CFR 50, Subpart A
  - 5.1.3. Federal Sentencing Guidelines – Chapter 8 Part B – Remedying Harm from Criminal Conduct, and Effective Compliance & Ethics
  - 5.1.4. America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science (COMPETES) Act - 42 U.S.C. §1862 et seq. (2007)
- 5.2. USM Policy and Procedures.
  - 5.2.1. [RCR 103 Anti-Retaliation SOP for Reporting of Alleged Research Misconduct](#)
  - 5.2.2. [RCR 102 Sequestration of Research Records](#)

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<sup>6</sup> § 93.102(b)(6).

## 6. Procedure:

### 6.1. Integrity of Procedures

- 6.1.1. The Complainant, the Responsible Administrator, the RIO, witnesses, and members of review panels, Inquiry Panels, and Investigative Committees shall act in Good Faith pursuant to 42 CFR Part 93.
- 6.1.2. No one shall attempt to prejudice or coerce the judgment or decisions of an Inquiry Panel member, an Investigative Committee member, a review panel member, the Responsible Administrator, or the RIO.
- 6.1.3. No one shall attempt to prejudice or coerce the testimony of any witness, the Complainant, or the Respondent.
- 6.1.4. No one shall engage in or threaten [Retaliation](#).
- 6.1.5. Any Institutional Member with knowledge of any actual or threatened violation of the integrity of these Procedures shall immediately inform the RIO of such actual or threatened violations. In addition, the Provost shall be informed of any complaint or report that a member of an Inquiry Panel, an Investigative Committee, or a review panel, the Responsible Administrator, or the RIO has not acted in Good Faith in carrying out any of his or her duties under these Procedures.

6.2. **Indemnification.** The University of Maine System (UMS) Policy on Indemnification shall govern the indemnification of the RIO, the Responsible Administrator, unpaid Counsel and Advisors who are USM employees, and members of Inquiry Panels, Investigative Committees, and review panels who are USM employees. Indemnification shall be provided to non-USM members of Inquiry Panels, Investigative Committees, and review panels and to witnesses (except for non-USM expert witnesses appearing on a contractual basis) in accordance with the UMS policy on indemnification of volunteers with respect to their activities in Good Faith.

6.3. **Anonymous Allegations.** The RIO at USM shall review anonymous allegations under the Procedures set forth on the USM ORIO website here: <https://usm.maine.edu/orio/reporting-alleged-research-misconduct-and-animal-protocol-violations/>

### 6.4. Confidentiality.

- 6.4.1. **Limited Disclosure of Allegation/Misconduct Proceedings.** Except as may otherwise be prescribed by applicable law, the institution will maintain confidentiality for any records or evidence from which research subjects might be identified and will limit disclosure to those who need to know to carry out a Misconduct Proceeding.<sup>7</sup> In amplification, and not in limitation, of the foregoing:
  - 6.4.1.a. If an Allegation results in an Investigation, the RIO may confidentially notify any person or entity that has plans to publish or disseminate the results of the Research to which the Allegation relates that an Investigation is pending.
- 6.4.2. **Complainant and Witness Identity.** USM shall make diligent efforts to honor the request of any Complainant or Witness that her or his identity be kept confidential during the UMS's review of her or his Allegation under these Procedures.
- 6.4.3. **Breaches of Confidentiality.** The RIO should be informed immediately of breaches of confidentiality. The RIO will investigate breaches of confidentiality and refer matters to the appropriate administrator for review and such further action, if any, as the administrator may deem appropriate.

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<sup>7</sup> § 93.106(b). Applicable to all confidentiality requirements in this section.

- 6.5. **Cooperation.** To preserve the integrity of the environment for Research, members of the USM community are expected to cooperate in the review of Allegations under these Procedures, for example, by providing documents and testimony if requested to do so by the RIO. A Respondent's destruction of Research Records documenting the questioned research is Evidence of Research Misconduct where USM or a federal agency establishes by a preponderance of the Evidence that the Respondent Intentionally or Knowingly destroyed records after being informed of the Research Misconduct Allegation(s). A Respondent's failure to provide Research Records documenting the questioned research is Evidence of Research Misconduct where the Respondent claims to possess the records but refuses to provide them upon request.
- 6.6. **Events Requiring Immediate Action.** If, at any stage of these Procedures, the RIO obtains reasonable information about:
- 6.6.1. a possible criminal violation,
  - 6.6.2. an immediate health hazard or other imminent risk of danger to public health or safety or to human or animal subjects,
  - 6.6.3. the need to take immediate action to protect the funds or equipment of any governmental or other sponsor of Research or to assure compliance with the terms of a contract sponsoring Research.
  - 6.6.4. the need to take immediate action to protect any Complainant, Respondent, witness, member of an Inquiry Panel, an Investigative Committee, or a review panel, or other person involved in any Misconduct Proceeding,
  - 6.6.5. the need to take immediate action to prevent the loss, destruction, or adulteration of any Evidence,
  - 6.6.6. the need to take immediate action to prevent or stop an imminent or continuing violation of an applicable law, regulation, or other governmental requirement or of a University of Maine System (UMS) rule or policy, or
  - 6.6.7. the probable public disclosure of an Allegation or any Misconduct Proceeding, the RIO shall immediately so notify the President, the Provost, UMS Counsel, and, if appropriate, the pertinent government official or sponsor of the Research, and, following consultation with UMS Counsel, the RIO shall promptly make recommendations to the Provost, and the President as to responsive actions.
    - 6.6.7.a. Notwithstanding any other provision of these Procedures, appropriate USM administrators shall have the authority to take any actions they deem necessary or appropriate to safeguard USM personnel, other participants in any Misconduct Proceeding, public health or safety, experimental subjects, sponsors' funds or equipment, Evidence, or the integrity of the research environment. Any such action that is taken shall not be deemed to predetermine any finding or conclusion from the USM's review of an Allegation under these Procedures, but any information arising from any such action may constitute Evidence.
- 6.7. **Notice.** Any notice or other document issued pursuant to these Procedures must be in writing and must include an explanation of any decision or opinion stated therein. The RIO shall provide the Respondent copies of all such documents in a timely manner. Note that only allegations specific to a particular Respondent are to be included in the notification to that Respondent.
- 6.8. **Interpretation.**
- 6.8.1. **Time Periods.** Unless otherwise specified in these Procedures:
    - 6.8.1.a. the failure to exercise any right granted under these Procedures within the

stated time period shall constitute a waiver of that right.

- 6.8.2. **Plural Usage.** The text of these Procedures generally assumes a single Complainant, Respondent, witness, and Allegation. Where there are multiple Complainants, Respondents, witnesses, or Allegations, these Procedures shall be construed accordingly.
- 6.8.3. **Headings.** Headings used in these Procedures are for convenience of reference only and shall not be used for interpreting content.
- 6.9. **Challenges; Review by Provost/Panel.**
  - 6.9.1. Both the Respondent and the Complainant may challenge the RIO's identification of the Responsible Administrator, but only on the basis of asserted Conflict of Interest on the part of the Responsible Administrator.
  - 6.9.2. Both the Respondent and the Complainant may challenge the Responsible Administrator's identification of an Inquiry Panel member or an Investigative Committee member, but only on the basis of asserted Conflict of Interest on the part of the Inquiry Panel member or Investigative Committee member.
  - 6.9.3. A Respondent or Complainant who wishes to file such a challenge must do so in writing, with accompanying rationale, within ten days of receiving notice of the determination or identification. The challenge must be submitted to the RIO. The RIO or the Responsible Administrator, as appropriate, must respond to the challenge in writing within five days, either accepting it and taking appropriate action, or rejecting it for stated cause.
  - 6.9.4. **Reviews.** If not satisfied with the RIO's or the Responsible Administrator's response to a permissible challenge, the Respondent or Complainant may have the RIO's or the Responsible Administrator's response reviewed by the Provost or a review panel. The request for review must: (1) be in writing, (2) set forth the basis for the request, and (3) be filed with the Provost within five days after the Respondent's or the Complainant's receipt of the RIO's or the Responsible Administrator's response to the challenge.
    - 6.9.4.a. If the review is to be conducted by a review panel, the Provost shall convene that Panel within five days of the filing of the request for review. The review panel shall be composed of three members without Conflicts of Interest selected by the Provost.
    - 6.9.4.b. Within five days of being convened, the review panel will review the challenge, the response, and the request for review, and render a binding decision on the challenge.
    - 6.9.4.c. If the review is to be conducted by the Provost, the Provost will review the challenge, the response, and the request for review, and render a binding decision on the request for review within five days of the filing of the request for review.
  - 6.9.5. **Extensions of Time.** The deadlines in this Section may be extended by the RIO through written notice to the parties for good cause shown.
  - 6.9.6. **Other Objections and Complaints.** If the Complainant or Respondent objects to any other decision made during the current or any previous Misconduct Proceeding in the review of the Allegation, he or she may raise that objection:
    - 6.9.6.a. with the Inquiry Panel during the Inquiry;
    - 6.9.6.b. with the Investigative Committee during the Investigation; and
    - 6.9.6.c. with the Provost during an internal appeal under Section 6.22. below.
    - 6.9.6.d. Neither procedural or substantive decisions nor findings made under these

Procedures by the RIO, a Responsible Administrator, an Inquiry Panel, an Investigative Committee, a review panel, the Provost, or the President can be challenged or overturned under other University policies, contracts, or procedures.

6.10. **Role of the RIO**

- 6.10.1. The RIO shall coordinate implementation of these Procedures and shall be responsible for their fair and impartial administration. The RIO shall not be an advocate for the Complainant or the Respondent.
- 6.10.2. The RIO shall serve as an advisor to Inquiry Panels and Investigative Committees. If so requested, the RIO shall provide logistical support, recruit expert witnesses, and arrange for legal advice through the UMS Counsel.
- 6.10.3. When an Allegation involves Research supported by a federal funding source, the RIO shall see that USM meets all legal requirements to apprise the funding source of the status of an Inquiry or an Investigation into that Allegation. The RIO also shall report regularly to the Provost on the status of each Inquiry and each Investigation.
- 6.10.4. The RIO shall identify the Responsible Administrator. The RIO also shall disqualify any Responsible Administrator, the witness, or any potential or sitting member of an Inquiry Panel or Investigative Committee, if the RIO determines that such person has a Conflict of Interest.<sup>8</sup>
- 6.10.5. At the time of notifying the Respondent of the Inquiry and whenever additional items become known or relevant, the RIO shall promptly take all reasonable and practical steps as outlined in [RCR 102 Sequestration of Research Records](#) to obtain custody of all Research Records and other Evidence needed to conduct the review of an Allegation under these Procedures, inventory the Evidence, and sequester it in a secure manner, except where the Evidence encompasses scientific instruments shared by a number of users. The RIO may take custody of copies of the Evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. The RIO will give the Respondent copies of, or reasonable supervised access to the Evidence.
- 6.10.6. Research Misconduct Institutional Records will be kept in a secure room, accessible only to the RIO and their administrative staff. The RIO shall keep all Misconduct Proceeding Records for at least seven years after the completion of the Misconduct Proceedings to which they relate, or the completion of any HHS proceeding, whichever is later, unless custody has been transferred to HHS.<sup>9</sup> RIO shall keep Assessment reports and related Misconduct Proceeding Records for seven years after the completion of the Assessment to which they relate and then destroy them.
- 6.10.7. Other RIO responsibilities are set forth elsewhere in these Procedures.

6.11. **Other Internal or External Proceedings.**

- 6.11.1. The conduct which forms the basis for an Allegation may also involve the possible violation of other USM policies or the policies of other institutions, and of external laws and regulations, and may occasion other internal or external adjudicatory proceedings. The following shall govern the handling and sequencing of such proceedings:
  - 6.11.1.a. **Other Institution's Review.** Another educational or research institution may have the right to review the same Allegation (or a related Allegation) against

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<sup>8</sup> 42 C.F.R. § 93.304(b)

<sup>9</sup> § 93.318.

the same Respondent. In such an event, the RIO shall consult her or his counterpart at the other institution to determine whether USM or the other institution is best able to review the Allegation. If the RIO determines that the other institution is best able to review the Allegation, the RIO shall so advise the Provost, who has authority to stay or terminate USM's review of the Allegation based on the review conducted at USM or the other institution, as set forth in Section 6.16. below.

6.11.1.a.1. USM and the other institution may also agree to conduct a joint Misconduct Proceeding. If a joint Misconduct Proceeding is conducted, one institution must be designated as the lead institution. In a joint Misconduct Proceeding, the lead institution should obtain Research Records and other Evidence pertinent to the proceeding, including witness testimony, from the other relevant institutions. By mutual agreement, the joint Misconduct Proceeding may include committee members from the institutions involved. The determination of whether further Inquiry and/or Investigation is warranted, whether Research Misconduct occurred, and the institutional actions to be taken may be made by the institutions jointly or tasked to the lead institution.

- 6.11.2. **Research Collaborator.** In the event of an Allegation involving Research or Creative Activities undertaken by a Respondent in collaboration with a colleague at another educational or research institution, the RIO shall advise his or her counterpart at the other institution confidentially of the Allegation, and ask if a similar allegation has been made against the collaborator. If it has, USM, through the RIO, shall attempt to cooperate and share information confidentially with the other institution in their respective reviews of the Allegation and of the related allegation involving the collaborator. USM and the other institution may also agree to conduct a joint Misconduct Proceeding as set forth in 6.11.1.a.
- 6.12. **Government Investigation.** Certain federal funding sources have the option, at any stage in these Procedures, to initiate an independent investigation of an Allegation involving Research supported by the funding source. In the event a federal funding source initiates such an investigation, the RIO shall consult the federal funding source regarding its investigation and shall advise the Provost whether USM should suspend its review of the Allegation during the federal funding source's investigation, which the Provost shall have authority to do, as set forth in Section 6.16. below.
- 6.13. **Criminal Process.** In general, USM review of an Allegation under these Procedures may occur in parallel with criminal processes. If an Allegation is also the subject of a criminal investigation or proceeding and the pertinent governmental authority advises USM that the University's review of the Allegation under these Procedures may prejudice or interfere with that investigation or proceeding, the Provost shall have authority to stay any Misconduct Proceeding as set forth in Section 6.16. below, until the criminal investigation or proceeding is complete.
- 6.14. **Civil Litigation.** The existence of civil litigation involving USM may necessitate staying a Misconduct Proceeding. The Provost shall make such decisions under the authority set forth in Section 6.16. below on a case-by-case basis and promptly report them to the RIO.
- 6.15. **RIO Stay of Proceedings.** The RIO shall have authority to stay any Misconduct Proceeding if, following consultation with the UMS Counsel, the RIO determines that other USM

- procedures mandated by law must be completed prior to USM's further review of an Allegation under these Procedures. Such governmentally mandated procedures may involve various forms of regulatory action (for example, the removal or clean-up of radioactive or other hazardous materials).
- 6.16. **Provost Authority.** The Provost as Deciding Official shall have authority to:
- 6.16.1. stay any Misconduct Proceeding until the completion of the review of the same Allegation, or of a related Allegation against the same Respondent, at another educational or research institution;
  - 6.16.2. terminate for good cause shown the review of any Allegation under these Procedures upon the completion of the review of the Allegation at another educational or research institution;
  - 6.16.3. stay any Misconduct Proceeding until the completion of an independent investigation by a federal funding source of an Allegation involving Research of which it supported;
  - 6.16.4. stay any Misconduct Proceeding until the completion of Civil Litigation and/or criminal investigation or proceeding is complete;
  - 6.16.5. terminate for good cause shown the review of any Allegation under these Procedures upon the completion of an independent investigation by a federal funding source of an Allegation involving Research which it supported.
- 6.17. **Precedence of Proceedings.** Subject to Section 6.15. above and to USM's right to take interim action under any UMS policy or contract review of an Allegation under these Procedures shall precede all other internal USM proceedings against a Respondent that relate to or arise out of the alleged Research Misconduct, including, without being limited to, disciplinary, anti-discrimination, and grievance proceedings.
- 6.18. **Procedures for Conduct of Misconduct Proceedings – General.**
- 6.18.1. Determination of Procedures. Those charged with conducting a Misconduct Proceeding shall determine the procedures that will be followed, provided that:
    - 6.18.1.a. the procedures they adopt shall be those they deem best suited to achieve a fair and equitable review of the Allegation;
    - 6.18.1.b. the procedures they adopt shall reflect a spirit of mutual respect and collegiality, and may, therefore, be as informal as they deem appropriate under the circumstances;
    - 6.18.1.c. During the Misconduct Proceeding, testimony shall be obtained from witnesses through private interviews rather than through a formal hearing;
    - 6.18.1.d. The Investigative Committee will interview each Respondent, Complainant(s), 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.<sup>10</sup>
    - 6.18.1.e. The Investigative Committee will number all relevant exhibits and refer to any exhibits shown to the interviewee during the interview by that number.<sup>11</sup> The institution will record and transcribe interviews during the investigation and make the transcripts available to the interviewee for correction.<sup>12</sup> The institution will include the transcript(s) with any corrections and exhibits in

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<sup>10</sup> § 93.310(g).

<sup>11</sup> § 93.310(g)(2).

<sup>12</sup> §§ 93.310(g)(1) and 93.310(g)(3).

- the institutional record of the investigation.<sup>13</sup> The Respondent will not be present during the witnesses' interviews, but the institution will provide the Respondent with a transcript of each interview, with redactions as appropriate to maintain confidentiality.<sup>14</sup>;
- 6.18.1.f. the Respondent shall have the right to be advised by Counsel in all Misconduct Proceedings;
  - 6.18.1.g. the Complainant shall have the right to be advised by an Advisor in all Misconduct Proceedings;
  - 6.18.1.h. in all Inquiries, and Investigations, the Respondent shall have the right to present Evidence and to identify persons who might have Evidence about the Allegation;
  - 6.18.1.i. formal rules of evidence shall not apply;
  - 6.18.1.j. each Misconduct Proceeding shall be conducted confidentially and in private.
  - 6.18.1.k. to the extent that a published regulation of a federal funding source requires a specific procedural element in the review and adjudication of an Allegation concerning a proposal to or an award from that federal funding source, that procedural element shall be included in the procedures adopted.
- 6.18.2. **UMS Counsel Advice.** The UMS Counsel shall, when so requested, provide legal advice regarding the implementation of these Procedures and other aspects of USM's review of an Allegation under these Procedures to the RIO, the Responsible Administrator, the Inquiry Panel, the Investigative Committee, the Provost, a review panel, and the President.
- 6.18.3. **Respondent Questions.** The RIO shall contact the Respondent at the start of each Misconduct Proceeding and attempt to answer any questions about that Misconduct Proceeding.
- 6.18.4. **Admission of Research Misconduct.** The Provost shall have authority to terminate USM's review of any Allegation under the Procedures upon the admission by the Respondent that Research Misconduct occurred and that the Respondent was responsible for it, if the termination of the review of that Allegation would not prejudice USM's review of another Allegation against that Respondent or against a different Respondent or USM's ability to assess the extent and consequences of the Research Misconduct and what action should be taken in response to it. When the alleged Research Misconduct involves Research supported by a federal funding source, The RIO will contact the funding source before proceeding with the acceptance of an admission.
- 6.18.5. **Records to Agency.** When the alleged Research Misconduct involves Research supported by a federal funding source, the RIO shall make available to its authorized personnel any Institutional Records that such personnel request.
- 6.18.5.a. Public Health Service (PHS) funded research. The institution will provide information related to the alleged research misconduct and proceedings to ORI upon request and transfer custody or provide copies of the Institutional Record or any component of it and any sequestered evidence to HHS,

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<sup>13</sup> § 93.310(g)(4).

<sup>14</sup> §§ 93.106, 93.300(d), and 93.310(g)(5). Institutions must, to the extent possible, provide confidentiality to respondents, complainants, and witnesses and protect complainants, witnesses, and committee members from retaliation. It is up to institutions to determine how to do so in practical terms (e.g., by redacting transcripts).

regardless of whether the evidence is included in the Institutional Record.<sup>15</sup> Additionally, the institution will promptly notify ORI of any special circumstances that may arise.<sup>16</sup>

- 6.18.6. **Additional Respondents.** If, during the course of any Misconduct Proceeding, additional Respondents are identified, they shall be notified immediately, and the RIO and the Responsible Administrator shall, to the degree feasible, attempt to coordinate the Misconduct Proceedings against all the Respondents.
- 6.19. **Allegations of Research Misconduct and Assessments**
- 6.19.1. **Allegation of Research Misconduct.** Allegations of Research Misconduct may be filed with the University by anyone, regardless of affiliation with the University. Such Allegations may be filed by any means of communications to the RIO or referred immediately to the RIO by any University official who receives an Allegation. Those wishing to make an anonymous allegation should follow the procedure set forth in Section 6.3. and on the USM ORIO website here:  
<https://usm.maine.edu/orio/reporting-alleged-research-misconduct-and-animal-protocol-violations/>
- 6.19.1.a. The RIO shall advise the Provost of all Allegations.
- 6.19.2. **Assessment.** In the event of an Allegation, the RIO shall promptly conduct an Assessment to determine whether an Inquiry is warranted.
- 6.19.2.a. **Purpose and Nature of Assessment.** The Assessment is a process whose purpose is to extract out a clearly erroneous, unsubstantiated, or Bad Faith Allegation before the Respondent is subjected to an Inquiry or an Investigation. Hence, in conducting the Assessment, the RIO is not obligated to do any interviews on the Allegation or to engage in an exhaustive review of all Evidence relevant to such Allegation.
- 6.19.2.b. **Assessment - Standard for Determination.** The RIO shall determine that an Inquiry is warranted if, in his or her judgment:
- 6.19.2.c. falls within the definition of Research Misconduct and
- 6.19.2.d. is credible and specific enough to identify and sequester potential Evidence.
- 6.19.3. **Inquiry Warranted.** If the RIO determines that an Inquiry is warranted, the RIO shall document the basis for his or her determination through a written Assessment report. The RIO shall transmit a copy of the Assessment report to the Provost.
- 6.19.3.a. After completing the Assessment, the RIO shall identify the Responsible Administrator, who shall then promptly initiate an Inquiry.
- 6.19.4. **Inquiry Not Warranted.**
- 6.19.4.a. **Assessment Report.** If the RIO determines that an Inquiry is not warranted, the RIO shall document the basis for his or her determination through a written Assessment report to the Provost.
- 6.19.4.b. **End of Review.** The RIO's determination that an Inquiry is not warranted shall conclude USM's review of that Allegation.
- 6.19.5. **Bad Faith.** If the RIO concludes that the Complainant acted in Bad Faith in making the Allegation, the RIO shall refer the matter for administrative review and appropriate action as set forth in Section 6.25. Below.

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<sup>15</sup> § 93.318(b).

<sup>16</sup> § 93.305(g).

6.20. **Inquiry.**

- 6.20.1. **Panel.** If the RIO or, pursuant to Section 4.3. above, an alternative RIO determines that an Inquiry is warranted, the Responsible Administrator shall appoint an Inquiry Panel of at least three members, chosen for their pertinent expertise. While Inquiry Panels will usually be composed of USM faculty, they may also include persons other than USM faculty when the Responsible Administrator determines that such persons have experience or expertise useful to the Inquiry. The Inquiry Panel shall select one of its members to act as its chairperson. The inquiry review may alternatively be done by the RIO or other designated institutional official in lieu of a committee, with the caveat that if needed, these individuals may utilize one or more subject matter experts to assist them in the inquiry.
- 6.20.2. **Charge.** The Responsible Administrator, with the assistance of the RIO, shall draft a Charge to the Inquiry Panel based upon the Assessment. The Responsible Administrator shall submit that Charge and a copy of the Assessment to the Inquiry Panel and the Respondent at the beginning of the Inquiry.
- 6.20.3. **Briefing.** Before the Inquiry begins, the RIO and UMS Counsel shall brief the Responsible Administrator and the Inquiry Panel on these Procedures, other relevant UMS regulations, and legal and procedural issues that the Inquiry Panel and the Responsible Administrator are likely to encounter in conducting the Inquiry.
- 6.20.4. **Standard for Determination.** The Inquiry Panel shall conduct the Inquiry to determine whether an Investigation is warranted. A member of an Inquiry Panel shall determine that an Investigation is warranted if, in her or his judgment, an Investigative Committee could reasonably conclude that Research Misconduct occurred. To so determine, the member of the Inquiry Panel must find that the Respondent's alleged conduct could constitute Research Misconduct and that there is credible Evidence to support further review of the Allegation, but must also find that there is sufficient credible Evidence and credible Evidence of such merit that an Investigative Committee could reasonably conclude, in accordance with the criteria in Section 6.21.2.e. below, that Research Misconduct occurred.
- 6.20.5. **Purpose and Nature of Inquiry.** Like the Assessment, the Inquiry is meant to extract out an insufficiently substantiated, erroneous, or Bad Faith Allegation before the Respondent is subjected to an Investigation. Although it is expected that the Inquiry will be more comprehensive than the Assessment, the members of the Inquiry Panel, like the RIO, are not obligated to conduct any interviews or hearings on the Allegation or to engage in an exhaustive review of all Evidence relevant to the Allegation. When a majority of the members of the Inquiry Panel concludes that an Allegation warrants an Investigation, the Inquiry Panel shall proceed to draft the Inquiry report.
- 6.20.6. **Assistance for Panel.** The RIO shall secure for the Inquiry Panel such special scientific or technical assistance as it requests to evaluate an Allegation.
- 6.20.7. **Responsible Administrator.** The Responsible Administrator shall not participate in the deliberations of the Inquiry Panel or vote on whether an Investigation is warranted.
- 6.20.8. **Timing.** The Inquiry shall be completed within 90 days of its inception unless circumstances warrant a longer period, in which event the Responsible Administrator shall notify the RIO and the Respondent of the reason for the delay and the date on which the Responsible Administrator expects that the Inquiry will be completed. The RIO shall decide whether the delay is warranted. If the RIO determines that it is, the

RIO shall notify the Respondent. If the RIO finds the delay unwarranted, the RIO shall work with the Responsible Administrator, the Respondent, and the Inquiry Panel to expedite completion of the Inquiry, but the Inquiry shall continue until its completion if, despite their diligent efforts, it cannot be finished in 90 days. The RIO shall make the Responsible Administrator's report about the delay part of the Misconduct Proceeding Records.

**6.20.9. Inquiry Report.**

6.20.9.a. **Content.** The Inquiry Panel shall prepare an Inquiry report with the following information:

- 6.20.9.a.1. The names, professional aliases, and positions of the respondent and complainant(s).
- 6.20.9.a.2. A description of the allegation(s) of research misconduct.
- 6.20.9.a.3. Details about the PHS funding, including any grant numbers, grant applications, contracts, and publications listing PHS support.
- 6.20.9.a.4. The composition of the inquiry committee, if used, including name(s), position(s), and subject matter expertise.
- 6.20.9.a.5. An inventory of sequestered research records and other evidence and description of how sequestration was conducted.
- 6.20.9.a.6. Transcripts of interviews, if transcribed.
- 6.20.9.a.7. Inquiry timeline and procedural history.
- 6.20.9.a.8. Any scientific or forensic analyses conducted.
- 6.20.9.a.9. The basis for recommending that the allegation(s) warrant an investigation.
- 6.20.9.a.10. The basis on which any allegation(s) do not merit further investigation.
- 6.20.9.a.11. Any comments on the inquiry report by the respondent or the complainant(s).
- 6.20.9.a.12. Any institutional actions implemented, including internal communications or external communications with journals or funding agencies.
- 6.20.9.a.13. Documentation of potential evidence of honest error or difference of opinion.

6.20.9.b. **Deviation from Practice.** Evidence of serious deviation from commonly accepted practices and an analysis of the Allegation in light of such practices shall be included in the Inquiry report.

6.20.9.c. **Investigation Warranted.** If the Inquiry Panel determines that an Investigation is warranted, the Inquiry report shall set forth the Evidence that supports its determination in sufficient detail for the Respondent and an Investigative Committee to understand the basis for the Inquiry Panel's decision.

6.20.9.d. **Investigation Not Warranted.** If the Inquiry Panel determines that an Investigation is not warranted, the Inquiry report shall include a detailed statement of why the Respondent's alleged conduct would not, under the definition in these Procedures, constitute Research Misconduct, or why the available Evidence is insufficient, or lacks sufficient credibility or merit, to warrant an Investigation.

6.20.9.e. **Draft Report; Comments.** The RIO shall send the Respondent a copy of the

draft Inquiry report. The Respondent may return comments on the draft Inquiry report to the RIO within seven days of receipt of the draft Inquiry report. If the Respondent comments on the draft Inquiry report, the Inquiry Panel shall consider such comments and make any changes in the Inquiry report it deems appropriate in light of such comments. The Respondent's comments shall be included as an appendix to the final Inquiry report.

**6.20.10. Provost Opinion on Final Draft Report.**

6.20.10.a. After making any changes it deems appropriate in the draft Inquiry report in light of the Respondent's comments, the Inquiry Panel shall prepare a final draft of the Inquiry report. The RIO shall send the Provost a copy of the final draft of the Inquiry report, attaching any RIO comments regarding procedural questions and concerns. Within 14 days after delivery of the final draft Inquiry report to the Provost, the Provost may submit an opinion to the RIO, the Responsible Administrator, and the Inquiry Panel on either or both of the following grounds:

6.20.10.a.1. If the Provost, with advice from UMS Counsel, finds that the final draft Inquiry report reflects procedural error by the Inquiry Panel in conducting the Inquiry, the Provost shall inform the RIO and shall identify and explain the Inquiry Panel's procedural error. The Inquiry Panel shall either correct the error before completing the Inquiry and the Inquiry report or shall notify the Provost in, or concurrently with the issuance of, the final Inquiry report that it does not believe a material procedural error occurred.

6.20.10.a.2. If the Provost finds that the Inquiry Panel's determination, as set forth in the final draft Inquiry report, is substantively wrong because the Evidence does not support the Inquiry Panel's determination, the Provost shall so inform the RIO and shall identify and explain the reason the Provost believes the Inquiry Panel's determination to be in error. The Inquiry Panel shall reconsider its decision in light of the opinion by the Provost. If the Inquiry Panel changes its determination in light of the opinion by the Provost, it shall submit a new draft of the Inquiry report to the Respondent for further comment. If the Inquiry Panel does not change its determination in light of the opinion by the Provost, the Inquiry Panel shall respond to the Provost in completing the Inquiry report and make any changes in the Inquiry report that it deems appropriate in light of the opinion by the Provost.

6.20.10.a.3. The opinion by the Provost shall be included as an appendix to the final Inquiry report.

6.20.10.a.4. **Distribution of Final Report.** The RIO shall send the Provost and the Respondent a copy of the final Inquiry report.

**6.20.11. Determination regarding Investigation.**

6.20.11.a. **Panel Initiation of Investigation.** If a majority of the members of the Inquiry Panel determine that an Allegation warrants an Investigation, the Responsible Administrator shall initiate an Investigation.

6.20.11.b. **Provost Overrule - Initiation of Investigation.** If a majority of the

members of the Inquiry Panel determine that an Investigation is not warranted, the Provost may, within 14 days of receiving the final Inquiry report, issue a decision to the Responsible Administrator and the Respondent overruling the Inquiry Panel for stated cause and instructing the Responsible Administrator to initiate an Investigation immediately. Upon receiving the decision of the Provost, the Responsible Administrator shall initiate an Investigation.

- 6.20.11.c. **No Investigation.** If a majority of the members of the Inquiry Panel determine that an Investigation is not warranted and the Provost does not overrule the determination of the Inquiry Panel, the determination of the Inquiry Panel will conclude USM's review of that Allegation, except as provided in Section 6.22.4.e. below.
- 6.20.11.d. **Dissent.** Any member of the Inquiry Panel who does not agree with the determination of the majority of the Inquiry Panel may file a dissent to the Inquiry report.
- 6.20.11.e. **Bad Faith.** If a majority of the members of the Inquiry Panel concludes that the Complainant acted in Bad Faith in making the Allegation, or that the Complainant or any witness acted in Bad Faith during the Inquiry, the Inquiry Panel shall refer the matter for administrative review and appropriate action, as set forth in Section 6.25.1.a. below.
- 6.20.11.f. **Notification.** If the Inquiry subsequently identifies additional Respondents, the RIO must notify them. Only allegations specific to a particular Respondent are to be included in the notification to that Respondent. If additional allegations are raised, the Respondent(s) must be notified in writing of the additional allegations raised against them. The RIO may, but is not required to, notify a Complainant whether the inquiry found that an investigation is warranted.<sup>17</sup> If the RIO provides notice to one Complainant in a case, it must provide notice, to the extent possible, to all Complainants in the case.<sup>18</sup>

## 6.21. Investigation

- 6.21.1. **Committee.** The Responsible Administrator shall initiate an Investigation within 30 days of the Inquiry Panel's determination, or the decision of the Provost, that an Investigation is warranted. The Responsible Administrator shall appoint an Investigative Committee of not less than three members, chosen for their pertinent expertise. While Investigative Committees will usually be composed of USM faculty, they may also include persons other than USM faculty when the Responsible Administrator determines that such persons have experience or expertise useful to the Investigation. The Investigative Committee shall select one of its members to act as its chairperson.
- 6.21.2. **Notifications.**
  - 6.21.2.a. **Notification - Internal.** The RIO shall notify the Provost and the UMS Counsel of the initiation of the Investigation.
  - 6.21.2.b. **Notification - Funding Source.** When the alleged Research Misconduct involves a Sponsored Program, the RIO shall also notify the source of the funding of the Investigation before the start of the Investigation. Such

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<sup>17</sup> § 93.308(b).

<sup>18</sup> Id.

notification shall include the name of the Respondent, the general nature of the Allegation, and the relevant grant application, grant number, or other identification for the support.

- 6.21.2.c. **Charge.** The Responsible Administrator, with the assistance of the RIO, shall draft a Charge to the Investigative Committee based on the Inquiry report and, if one was issued, the decision of the Provost. The Responsible Administrator shall submit a copy of that Charge, the Assessment, the Inquiry report, and, if one was issued, the overruling decision of the Provost to the Investigative Committee and the Respondent at the beginning of the Investigation.
- 6.21.2.d. **Briefing.** Before the Investigation begins, UMS Counsel and the RIO shall brief the Responsible Administrator and the Investigative Committee on these Procedures, other relevant UMS regulations, and legal and procedural issues that the Investigative Committee and the Responsible Administrator are likely to encounter in conducting the Investigation.
- 6.21.2.e. **Standard for Determination.** The Investigative Committee shall determine if Research Misconduct occurred, if the Respondent was responsible for it, and the extent, gravity, and actual and potential consequences of the Research Misconduct. To conclude that Research Misconduct occurred, a majority of the members of the Investigative Committee must find:
  - 6.21.2.e.1. a significant departure from accepted practices of the relevant research community; and
  - 6.21.2.e.2. that the Research Misconduct was committed intentionally, knowingly, or recklessly; and
  - 6.21.2.e.3. that the Allegation was proven by a Preponderance of the Evidence.
- 6.21.2.f. **Evidence Review.** The Investigative Committee shall examine all Evidence that it deems pertinent to the Allegation. At its discretion, the Investigative Committee may also inspect laboratories and examine laboratory specimens, materials, procedures, and methods.
  - 6.21.2.f.1. The Respondent will be provided copies of, or supervised access to, all Evidence made available to the Investigative Committee.
- 6.21.2.g. **Testimony.**
  - 6.21.2.g.1. The Investigative Committee shall conduct interviews with the Complainant, the Respondent, and other persons, if any, who have material information regarding the Allegation.
  - 6.21.2.g.2. **Transcripts.** The RIO shall arrange for transcripts of each witness's interview. The transcripts shall be made part of the Research Misconduct Institutional Records. The RIO shall give the Respondent a copy of the transcripts of any interview.
- 6.21.2.h. **Assistance for the Committee.** If the Investigative Committee decides that it needs special scientific or technical expertise to evaluate an Allegation, it shall so advise the RIO, who shall secure for the Investigative Committee the assistance that it requests.
- 6.21.2.i. **RIO and Responsible Administrator.** Neither the RIO nor the Responsible Administrator shall participate in the deliberations of the Investigative Committee or vote on whether Research Misconduct occurred. The Investigative Committee may request the assistance of the RIO during its

deliberations and in the preparation of the Investigation report, but shall not seek the RIO's opinion as to whether Research Misconduct occurred.

6.21.2.j. **Timing.** The Responsible Administrator and Investigative Committee shall use their best efforts to complete the Investigation within 180 days of its inception.

6.21.2.j.1. **Extension.** If the Investigation cannot be completed in that period, the Responsible Administrator may request an extension from the RIO, in which event the Responsible Administrator shall notify the RIO and the Respondent of the reason for the delay and the date on which the Responsible Administrator expects that the Investigation will be completed. The Responsible Administrator's report about the delay shall be included in the Misconduct Proceeding Records. If the alleged Research Misconduct involves Research supported by a federal funding source, the RIO shall notify it of the delay; request an extension; explain why the extension is necessary; and provide a progress report of the Investigative Committee's activities to date and an estimate of the completion date of the Investigation.

6.21.2.j.2. **Notice of Stay.** If the Investigation is stayed and the alleged Research Misconduct involves Research supported by a federal funding source, the RIO shall promptly inform it of the date and expected duration of the stay and of the reason for staying the Investigation.

### 6.21.3. **Investigation Report.**

6.21.3.a. **Content.** The Investigative Committee shall prepare a written Investigation report. It shall include:

6.21.3.a.1. Description of the nature of the allegation(s) of research misconduct, including any additional allegation(s) addressed during the Misconduct Proceeding.

6.21.3.a.2. Description and documentation of the PHS support, including any grant numbers, grant applications, contracts, and publications listing PHS support. This documentation includes known applications or proposals for support that the respondent has pending with PHS and non-PHS Federal agencies.

6.21.3.a.3. Description of the specific allegation(s) of research misconduct for consideration in the investigation of the respondent.

6.21.3.a.4. Composition of the investigation committee, including name(s), position(s), and subject matter expertise.

6.21.3.a.5. Inventory of sequestered research records and other evidence, except records the institution did not consider or rely on. This inventory will include manuscripts and funding proposals that were considered or relied on during the investigation. The inventory will also include a description of how any sequestration was conducted during the investigation.

6.21.3.a.6. Transcripts of all interviews conducted.

6.21.3.a.7. Identification of the specific published papers, manuscripts submitted but not accepted for publication (including online publication), PHS funding applications, progress reports,

- presentations, posters, or other research records that contain the allegedly falsified, fabricated, or plagiarized material.
- 6.21.3.a.8. Any scientific or forensic analyses conducted.
  - 6.21.3.a.9. A copy of these policies and procedures and any other UMS policies and procedures relevant to the Investigation.
  - 6.21.3.a.10. Any comments made by the respondent and complainant(s) on the draft investigation report and the committee's consideration of those comments.
- 6.21.3.b. an analysis of each separate Allegation pursuant to the standards set forth in Section 6.21.2.e. below;
- 6.21.3.c. in an Allegation of serious deviation from accepted practices, a description of the Evidence regarding the accepted practices in the discipline and an analysis of the Allegation in light of such practices; and
- 6.21.3.d. **Research Misconduct Finding.** If the Investigative Committee finds that Research Misconduct occurred, the Investigation report must include the Investigative Committee's determination that:
- 6.21.3.d.1. identify the individual(s) who committed the research misconduct;
  - 6.21.3.d.2. indicate whether the misconduct was falsification, fabrication, and/or plagiarism;
  - 6.21.3.d.3. indicate whether the misconduct was committed intentionally, knowingly, or recklessly;
  - 6.21.3.d.4. identify any significant departure from the accepted practices of the relevant research community and that the allegation was proven by a preponderance of the evidence;
  - 6.21.3.d.5. summarize the facts and analysis supporting the conclusion and consider the merits of any explanation by the respondent;
  - 6.21.3.d.6. identify the specific PHS support; and
  - 6.21.3.d.7. state whether any publications need correction or retraction.
- 6.21.3.e. **No Research Misconduct Found.** If the Investigative Committee does not find that Research Misconduct occurred, it shall explain the reasons for its decision in the Investigation report, with specific reference to the pertinent criteria set forth in Section 6.21.2.e. below.
- 6.21.3.f. **Draft Report; Comments.** The RIO shall send the Respondent a copy of the draft Investigation report. The Respondent may return comments on the draft Investigation report to the RIO within 30 days of receipt of the draft Investigation report. If the Respondent comments on the draft Investigation report, the Investigative Committee shall consider such comments and make any changes in the Investigation report it deems appropriate in light of such comments. The Respondent's comments shall be included as an appendix to the final Investigation report.
- 6.21.3.g. **Provost Opinion on Final Draft Report.**
- 6.21.3.g.1. After making any changes it deems appropriate in the draft Investigation report in light of the Respondent's comments, the Investigative Committee shall prepare a final draft of the Investigation report. The RIO shall send the Provost a copy of the final draft of the Investigation report, attaching any RIO comments regarding procedural questions and concerns. Within

14 days after delivery of the final draft Investigation report to the Provost, the Provost may submit an opinion to the RIO, the Responsible Administrator, and the Investigative Committee on either or both of the following two grounds:

6.21.3.g.1.i. If the Provost, with advice from UMS Counsel, finds that the final draft Investigation report reflects procedural error by the Investigative Committee in conducting the Investigation, the Provost shall inform the RIO and shall identify and explain the Investigative Committee's procedural error. The Investigative Committee shall either correct the error before completing the Investigation and the Investigation report or shall notify the Provost in, or concurrently with the issuance of, the final Investigation report that it does not believe a material procedural error occurred.

6.21.3.g.1.ii. If the Provost finds that the Investigative Committee's determination, as set forth in the final draft Investigation report, is substantively wrong because the Evidence does not support the Investigative Committee's determination, then the Provost shall so inform the RIO and shall identify and explain the reason the Provost believes the Investigative Committee's determination to be in error. The Investigative Committee shall reconsider its decision in light of the opinion by the Provost. If the Investigative Committee changes its determination in light of the opinion by the Provost, it shall submit a new draft of the Investigation report to the Respondent for further comment. If it does not change its determination in light of the opinion by the Provost, the Investigative Committee shall respond to the opinion by the Provost in completing the Investigation report and make any changes in the Investigation report that it deems appropriate in light of the opinion by the Provost.

6.21.3.g.2. The opinion by the Provost shall be included as an appendix to the final Investigation report.

6.21.3.h. **Dissent.** Any member of the Investigative Committee who does not agree with the determination of the majority of the Investigative Committee may file a dissent to the Investigation report.

6.21.3.i. **Bad Faith.** If a majority of the members of the Investigative Committee concludes that the Complainant acted in Bad Faith in making the Allegation, or that the Complainant or any witness acted in Bad Faith during any Misconduct Proceeding, the Investigative Committee shall refer the matter for administrative review and appropriate action as set forth in Section

6.25.1.a. below.

6.21.3.j. **Final Report; Provost Overrule.**

6.21.3.j.1. **Copy to Provost.** The RIO shall send the Provost a copy of the final Investigation report.

6.21.3.j.2. **Overrule; New Investigation.** If the Provost believes the Investigative Committee's determination is in error, the Provost may, within 14 days of receiving the final Investigation report, issue a written decision to the Responsible Administrator overruling the Investigative Committee for stated cause and instructing the Responsible Administrator to impanel another Investigative Committee immediately.

6.21.3.j.3. **Second Investigative Committee.** If a second Investigative Committee is impaneled, it shall conduct a new Investigation. Subject to the Respondent's right to appeal pursuant to Section 6.22. below, the second Investigative Committee's determination shall be binding.

6.21.3.k. **Distribution of Final Report; Comments.** The RIO shall send a copy of the final Investigation report to the Respondent. The Respondent may deliver comments on the Investigation report to the RIO within 14 days of the delivery of the final Investigation report to the Respondent. The RIO shall include any such comments in the Misconduct Proceeding Records.

6.21.3.l. Notifications.

6.21.3.l.1. **Complainant.** Promptly after completion of the Investigation, the RIO shall notify the Complainant of its outcome and provide the Complainant with a brief summary of the Investigation report, including those portions of the Investigation report that address the Complainant's role and testimony, if any, in the Investigation.

6.21.3.l.2. **Federal Support.** When the alleged Research Misconduct involves Research supported by a federal funding source, the RIO shall submit the Institutional Record to it. It may accept the Investigation report, ask for clarification or additional information, which shall be provided by the RIO, or commence its own independent investigation.

6.21.3.l.3. **Other Funding Source.** When the Alleged Research Misconduct involves Research supported by a non-federal funding source, the RIO shall notify it of the outcome of the Investigation promptly after the completion of the Investigation and provide it with a brief summary of the Investigation report and such other information, if any, as it may request in response to the RIO's notification.

6.22. **Appeal**

6.22.1. **Right.** A Respondent who has applied for or received support from a federal funding source for the Research in relation to which the Research Misconduct occurred has the right under certain circumstances to appeal a finding of Research Misconduct by an Investigative Committee to that federal funding source. In addition, all Respondents who are found to have committed Research Misconduct have the right to an internal USM appeal. During appellate proceedings no sanction will be imposed and no

disciplinary proceeding will be commenced as a consequence of the finding of Misconduct.

6.22.2. **External Appeal Record.** If the Respondent appeals a finding of Research Misconduct by an Investigative Committee to a federal funding source, the RIO shall share a copy of the Institutional Record.

6.22.3. **Creating and Transmitting the Institutional Record**

6.22.3.a. After the DO has made a final determination of research misconduct findings, the RIO will add the DO's written decision to the Investigation report and organize the Institutional Record in a logical manner.<sup>19</sup>

6.22.3.b. The Institutional Record consists of the records that were compiled or generated during the Misconduct Proceeding, except records the institution did not rely on.<sup>20</sup> These records include documentation of the Assessment, a single index listing all Research Records and Evidence, the Inquiry report and Investigation report, and all records considered or relied on during the Investigation.<sup>21</sup> The Institutional Record also includes the DO's final decision and any information the Respondent provided to the institution.<sup>22</sup> The Institutional Record must also include a general description of the records that were sequestered but not considered or relied on.<sup>23</sup>

6.22.3.c. If the Respondent filed an appeal, the complete record of any institutional appeal also becomes part of the Institutional Record.<sup>24</sup> USM will wait until the appeal is concluded to transmit the Institutional Record to ORI.<sup>25</sup> After the DO has made a final written determination, and any institutional appeal is complete, the institution will transmit the institutional record to ORI.<sup>26</sup>

6.22.4. **Procedure.**

6.22.4.a. **Internal Appeal.** The Respondent may appeal a finding of Research Misconduct to the RIO within 30 days of the date of the finding. The appeal must be in writing and must set forth the reasons (whether substantive or procedural) the Respondent believes the finding of Research Misconduct is wrong. The RIO will submit the appeal to the President for decision.

6.22.4.b. **Review and Recommendation.** The President may appoint a USM faculty member or administrator who does not have a Conflict of Interest and who has not previously been involved in the review of the Allegation under these Procedures to review the Misconduct Proceeding Records and the appeal and make recommendations to the President.

6.22.4.c. **Request for Additional Information.** The President, or the President's designee, may request further information about the Misconduct Proceedings in writing from the RIO. A copy of such information shall be provided to the Respondent.

6.22.4.d. **Basis for Decision.** The President's decision on the appeal shall be based on

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<sup>19</sup> §§ 93.220(a)(4) and 93.316.

<sup>20</sup> § 93.220.

<sup>21</sup> §§ 93.220(a)(1-3) and 93.220(b).

<sup>22</sup> § 93.220(a)(3-4).

<sup>23</sup> § 93.220(c).

<sup>24</sup> § 93.220(5).

<sup>25</sup> § 93.315(b).

<sup>26</sup> § 93.316.

the Misconduct Proceeding Records, as clarified or supplemented by the RIO in response to any request for further information about the Misconduct Proceedings, and the Respondent's appeal.

- 6.22.4.e. **New Evidence.** If the RIO or the Responsible Administrator learns of previously unavailable material Evidence relevant to the finding of Research Misconduct during the appeal, the RIO shall inform the President and the Respondent of the new Evidence. If the President concurs that the new Evidence could materially affect the finding of Research Misconduct, the President shall remand the finding of Research Misconduct to the Investigative Committee that made the finding for its consideration of the new Evidence. The Investigative Committee shall notify the President within 14 days that it finds the new Evidence immaterial to its prior finding or that it wishes to reopen the matter. The President may extend this period for good cause by notice to the Respondent and the RIO.
- 6.22.4.f. **Decision.** The President shall issue a decision and rationale affirming or reversing the finding of Research Misconduct within 30 days after the submission of the appeal to the RIO. The President may extend this period for good cause by notice to the Respondent and the RIO.

6.23. **Final Resolution and Outcome.**

- 6.23.1. **Exoneration.** If the Assessment results in a determination that an Inquiry is not warranted, or if the Inquiry Panel decides that an Investigation is not warranted, or if an Investigative Committee does not find that Research Misconduct has occurred, or if a finding of Research Misconduct is reversed on appeal, the Responsible Administrator and the RIO shall make reasonable and practicable efforts, if requested by the Respondent, to restore the Respondent's reputation. These efforts shall be undertaken in consultation with the Respondent, provided that they shall:
  - 6.23.1.a. be reasonable and practicable under the circumstances and proportionate to the damage to the Respondent's reputation as a result of the Allegation;
  - 6.23.1.b. be consistent with applicable federal funding source expectations, if the Research which was the subject of the Allegation was supported by that federal funding source; and
  - 6.23.1.c. not affect USM's ability to take action against the Respondent for Unacceptable Research Practices which come to USM's attention as a result of the review of the Allegation under these Procedures.

6.23.2. **Research Misconduct Found.**

- 6.23.2.a. **Actions.** When there is a final non-appealable decision that Misconduct has occurred:
  - 6.23.2.a.1. the Responsible Administrator, after consultation with the Provost, shall take appropriate actions in response to the finding of Research Misconduct. Such actions may include:
    - 6.23.2.a.1.i. the imposition of sanctions within the authority of the Responsible Administrator and initiating USM disciplinary proceedings appropriate to the finding of Research Misconduct pursuant to applicable UMS policies, procedures, and contracts, or
    - 6.23.2.a.1.ii. referring the finding of Research Misconduct to another administrator who has authority to impose sanctions and initiate disciplinary proceedings; and

- 6.23.2.a.1.iii. the RIO, after consultation with the UMS Counsel and the Provost, shall attempt to correct, and/or seek retraction of, any part of the Research Record materially affected by the Research Misconduct. The Respondent will not interfere with the RIO's efforts in these regards.
  - 6.23.2.a.1.iv. **Disciplinary Action.** USM views Research Misconduct as grounds for disciplinary action pursuant to applicable UMS policies, procedures, and contracts, including procedures for challenging or grieving disciplinary action.
  - 6.23.2.a.1.v. **Degree Revocation.** Research Misconduct which materially affects the original scholarly or creative work included in a master's or doctoral thesis submitted in fulfillment of degree requirements at USM. constitutes grounds for the revocation of that degree.
  - 6.23.2.a.1.vi. **Government Sanctions.** In addition to sanctions imposed by USM, certain federal funding sources may impose sanctions of their own, if the Research Misconduct involved Research which they supported.
- 6.23.3. **New Evidence.** If, following a final non-appealable decision that Research Misconduct has occurred, the Respondent learns of previously unavailable material Evidence relevant to the determination of Research Misconduct, the Respondent shall send that Evidence to the RIO with an explanation of its origin and importance. The RIO shall submit the new Evidence to the Investigative Committee that conducted the Investigation of the Misconduct. The Investigative Committee shall promptly consider the new Evidence and notify the President of its impact on its finding of Misconduct and on its Investigative report. The President may also consult the Provost about the impact of the new Evidence. Based on the new Evidence and the information from the Investigative Committee and the Provost, the President may reverse or affirm the previous finding of Research Misconduct, or remand the matter to the Investigative Committee to conduct a new Investigation in light of the new Evidence. The President shall issue that decision with stated rationale within 30 days of receiving the notice from the Investigative Committee, but may extend this period for good cause by notice to the Respondent and the RIO.
- 6.23.4. **Termination.** If the Provost terminates the review of any Allegation under Section 6.17.2., Section 6.16.5., an explanation for such termination shall be included in the Misconduct Proceeding Records.
- 6.24. **Unacceptable and Questionable Research Practices.**
- 6.24.1. **Referral from Proceedings.** An Inquiry Panel may find that, while a Respondent's conduct does not warrant an Investigation, it nevertheless constitutes an Unacceptable Research Practice or Questionable Research Practice. Similarly, an Investigative Committee may find that, while a Respondent's conduct does not constitute Research Misconduct, it nevertheless constitutes an Unacceptable Research Practice or a Questionable Research Practice. Any such finding shall be referred to the appropriate administrator for review. The administrator may deem further action appropriate, including, in the case of Unacceptable Research Practices, disciplinary action pursuant to applicable UMS policies, procedures, and contracts, including procedures for

challenging or grieving disciplinary action.

6.24.2. **Discovery and Report.** Unacceptable Research Practices or Questionable Research Practices may also be discovered in circumstances other than a review of an Allegation under these Procedures. When that happens, the alleged Unacceptable Research Practice or Questionable Research Practice should be referred to the appropriate administrator for review and such further action, if any, as the administrator may deem appropriate, including, in the case of Unacceptable Research Practices, disciplinary action pursuant to applicable UMS policies, procedures, and contracts, including procedures for challenging or grieving disciplinary action.

6.25. **Bad Faith.**

6.25.1. **Complainant or Witness.**

6.25.1.a. **Referral for Action.** If the RIO, an Inquiry Panel, or an Investigative Committee concludes that a Complainant or witness who is a USM employee or student acted in Bad Faith in a Misconduct Proceeding, the matter shall be referred to the appropriate administrator for review. The administrator may deem further action appropriate, including disciplinary action.

6.25.1.b. **Discipline.** USM views Bad Faith by a Complainant or witness who is a USM employee or student as grounds for disciplinary action pursuant to applicable UMS policies, procedures, and contracts, including procedures for challenging or grieving disciplinary action.

6.25.2. **Panel and Committee Members, Responsible Administrator, RIO.**

6.25.2.a. **Investigation.** If the Provost receives a complaint or report that an Inquiry Panel member, an Investigative Committee member, or a review panel member, the Responsible Administrator, or the RIO did not act in Good Faith in carrying out any of his or her duties under these Procedures, the Provost will investigate the complaint or report, with advice from UMS Counsel, and in cooperation with the RIO, if the complaint or report is not against or about the RIO.

6.25.2.b. **Provost Action.** If the Provost concludes that the individual against or about whom the complaint is made did not act in Good Faith in carrying out any of his or her duties under these Procedures, and that the failure so to act had a material adverse impact on any Misconduct Proceeding, the Provost shall:

6.25.2.b.1. take such action as may be necessary to preserve the integrity of the review of the Allegation, including, without being limited to, replacing the affected individual, abrogating the Misconduct Proceeding so affected and any subsequent Misconduct Proceedings in which the same Allegation was reviewed, and initiating new Misconduct Proceedings to substitute for those abrogated; and

6.25.2.b.2. refer the matter to the appropriate administrator for review and such action, if any, as the administrator may deem appropriate, including disciplinary action in instances of Bad Faith.

6.25.2.c. **Discipline.** USM views Bad Faith by a member of an Inquiry Panel, a member of an Investigative Committee, a member of a review panel, the Responsible Administrator, or the RIO as grounds for disciplinary action pursuant to applicable UMS policies, procedures, and contracts, including procedures for challenging or grieving disciplinary action.

6.26. **Protecting Participants in Misconduct Proceedings.**

6.26.1. **Protection of Position and Reputation.** USM shall make reasonable and practical efforts to protect the position and reputation of each individual who has, in Good Faith, participated in a Misconduct Proceeding as a Respondent, Complainant, witness, Inquiry Panel member or Investigative Committee member. These efforts shall be:

6.26.1.a. reasonable and practical under the circumstances;

6.26.1.b. proportionate to the risk to the individual's position and reputation; and

6.26.1.c. consistent with applicable funder expectations, if the Research which was the subject of the Allegation was supported by a federal funding source.

6.26.2. **Retaliation.**

6.26.2.a. **Prohibition.** USM members shall not engage in or threaten Retaliation.

6.26.2.b. **Procedure.** The standard operating procedure (SOP) for submitting formal retaliation complaints as well as the process for resolving the complaints is found in [RCR 103 Anti-Retaliation SOP for Reporting of Alleged Research Misconduct](#)

6.26.2.c. **Discipline.** USM views Retaliation by a USM member as grounds for disciplinary action pursuant to applicable UMS policies, procedures, and contracts, including procedures for challenging or grieving disciplinary action.

6.26.2.d. **Protection against Retaliation.** USM shall make diligent efforts to provide protection against Retaliation by individuals who are not Institutional Members. These efforts shall be reasonable and practical under the circumstances and, if the Research which was the subject of the Allegation whose review led to the Retaliation was supported by a federal funding source, shall be consistent with applicable funder expectations.

6.27. **Provisions for Changing these Procedures.**

6.27.1. Any member of the USM community may recommend changes to these Procedures by writing to the RIO who shall be the primary venue for governance consideration of these Procedures. The RIO shall consult with the Provost, and the UMS General Counsel if applicable, any such recommended changes of which it approves as proposed amendments to these Procedures. The RIO shall promptly notify the IRB of these changes. The Provost shall have final authority and control over these Procedures.

6.27.2. On an interim basis, the RIO shall, after consultation with the Provost, and the UMS General Counsel, modify these Procedures to incorporate relevant requirements of new laws, regulations, executive orders, and other governmental requirements as such laws, regulations, orders, and requirements take effect. The RIO shall promptly report these changes to the Faculty Senate and Research Council.

7. **Assurance and Annual Report to ORI.**

7.1. The RIO is responsible for filing an annual report with the Office of Research Integrity (ORI) containing the information prescribed by ORI. The RIO will send to ORI with the annual report such other aggregated information as ORI may prescribe on USM's Misconduct Proceedings and USM's compliance with 42 CFR Part 93.

**8. Fostering responsible conduct of research and training.**

8.1. USM shall conduct mandatory Responsible Conduct of Research (RCR) in-person training, typically in the Spring and Fall semesters.

8.2. These in-person training sessions shall be a total of four hours and must be completed in conjunction with relevant online training modules.

8.2.1. The following grant personnel must attend one of these training sessions every four years:

8.2.1.a. For NIH grants: Any “trainees, fellows, participants, and scholars” receiving support through any NIH training, career development award (individual or institutional), research education grant, and dissertation research grant.

*Please note this RCR training requirement only applies to the following NIH projects: D43, D71, F05, F30, F31, F32, F33, F34, F37, F38, K01, K02, K05, K07, K08, K12, K18, K22, K23, K24, K25, K26, K30, K99/R00, KL1, KL2, R25, R36, T15, T32, T34, T35, T36, T37, T90/R90, TL1, TU2, and U2R programs, or where the funding opportunity announcement states instruction in RCR is required.*

8.2.1.b. For NSF grants: Any students (undergraduate students and graduate students), postdoctoral researchers, faculty, and other senior personnel supported by the proposed research project who receive NSF funds (support from salary and/or stipends to conduct research on NSF grants). Such training must include mentor training and mentorship.

8.2.2. All grant personnel required to attend the in-person training session must also complete the RCR module titled: General RCR, Basic Course every four years. The instructions to the training can be found on the Office of Research Integrity and Outreach (ORIO) website

at: <https://usm.maine.edu/orio/responsible-conduct-of-research-rcr/>