

UNIVERSITY OF SOUTHERN MAINE
Office of Research Integrity & Outreach

Procedure #:	RCR-101
Date Adopted:	November 20, 2013
Last Updated:	March, 2014
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Reviewed By:	Provost, Federal Office of Research Integrity, Institutional Review Board University of Southern Maine Human Resources
Title:	Alleged Research Misconduct Policy

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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 faculty, staff, and students directly involved in such activities. Anyone found guilty of Research Misconduct is subject to disciplinary action by USM. Those engaged in research and other professional activities should be familiar with regulations and ethics guidelines that govern their disciplines. Faculty, staff, and students should disclose immediately what they believe to be Research Misconduct to the Research Integrity Officer (RIO).
2. **Scope:** These Procedures apply to all members of the University of Southern Maine community, including students, who engage in Research.
3. **Responsibility:**
 - 3.1. 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.
 - 3.2. The RIO shall be free of any real or apparent conflicts of interest in any particular case.
 - 3.3. 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.
4. **Definitions:**
 - 4.1. **“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.
 - 4.2. **“Allegation”** means a disclosure of possible Research Misconduct by a Respondent to the RIO by any means of communication.
 - 4.3. **“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.
 - 4.4. **“Complainant”** means a person who makes an Allegation. A Complainant need not be a member of the USM community.
 - 4.5. **“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, the Responsible Administrator, the RIO, the Provost, or the President.
 - 4.6. **“Counsel”** means lay or legal counsel secured by a Respondent to serve as an advisor to the Respondent in Research Misconduct Proceedings against the Respondent.
 - 4.7. **“Evidence”** means any document, tangible item, or testimony that is received, or that may be offered, as evidence during a Research Misconduct Proceeding to prove or disprove the existence of a fact relevant to the Allegation at issue in that Research Misconduct Proceeding. This could include, depending on the Allegation, materials such as:
 - proposals, grant applications, and comments thereon,
 - relevant research data and related records,
 - laboratory notebooks and computer files,
 - telephone logs and memos of calls,
 - correspondence, or
 - manuscripts, posters, publications, and tapes of oral presentations.

- 4.9. **“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.
- 4.10. **“Good Faith”** as applied to a Complainant or witness, means having a belief in the truth of one’s Allegation or testimony that a reasonable person in the Complainant’s or witness’s position could have based on the information known to the Complainant or witness at the time. An Allegation or cooperation with a Research Misconduct Proceeding is not in Good Faith if made with a knowing or reckless disregard for information that would negate the Allegation or testimony. Good Faith as applied to an Inquiry Panel member, an Investigative Committee member, a Review Panel member, the Responsible Administrator, or the RIO means cooperating with the Research 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 Inquiry Panel member, an Investigative Committee member, a Review Panel member, the Responsible Administrator, or the RIO does not act in Good Faith if his or her acts or omissions in carrying out any such duty are dishonest or influenced by a Conflict of Interest.
- 4.11. **“Inquiry”** means information gathering and initial fact finding to determine whether an Allegation warrants an Investigation.
- 4.12. **“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. When a student is the Respondent, at least one student shall be a member of the Inquiry Panel. The Inquiry Panel shall select one of its members to act as its chairperson.
- 4.13. **“Investigation”** means the formal, thorough examination and evaluation of all facts relevant to an Allegation to determine if Research Misconduct occurred and to assess its extent, gravity, and actual and potential consequences.
- 4.14. **“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. When a student is the Respondent, at least one student shall be a member of the Investigative Committee. The Investigative Committee shall select one of its members to act as its chairperson.
- 4.15. **“Misconduct Proceeding”** means any proceeding under these Procedures related to the review of an Allegation, including Preliminary Assessments, Inquiries, Investigations, and internal appeals.
- 4.16. **“Plagiarism”** means the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit.
- 4.17. **“Preliminary Assessment”** means initial information gathering to determine whether there is credible Evidence to support further review of an Allegation and whether the Respondent’s alleged conduct could constitute Research Misconduct or Unacceptable Research Practices.
- 4.18. **“Preponderance of the Evidence”** means proof by Evidence that, compared with that opposing it, leads to the conclusion that the fact at issue is more probable than not.
- 4.19. **“Procedures”** means these Procedures Concerning Allegations of Research Misconduct in Research.

- 4.20. **“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.
- 4.21. **“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).
- 4.22. **“Research Misconduct”** 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.
- 4.23. **“Research Misconduct Proceeding Records”** means:
- (1) Evidence secured for any Research Misconduct Proceeding;
 - (2) a record of the RIO’s review of other documents, tangible items, and testimony received or secured by the RIO in connection with that Research Misconduct Proceeding but determined by the RIO to be irrelevant to the Allegation at issue in the Research Misconduct Proceeding or to duplicate Evidence that has been retained;
 - (3) the Preliminary Assessment report or referral and final (not draft) documents produced in the course of preparing that report or referral, including any other documentation of a decision that an Inquiry is not warranted;
 - (4) the Inquiry report and final (not draft) documents produced in the course of preparing that report, including any other documentation of a decision that an Investigation is not warranted;
 - (5) the Investigation report and all records (other than drafts of the Investigation report) in support of that report, including the transcripts of each interview or hearing conducted during an Investigation;
 - (6) the complete record of an internal appeal (see **Section 6.23** below) from a finding of Research Misconduct; and
 - (7) the complete record of any challenge or review under **Section 6.10.1** below.
- 4.24. **“RIO”** means the University’s Research Integrity Officer. The RIO for USM currently is [Ross Hickey, Assistant Provost for Research Integrity](#).
- 4.25. **“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.
- 4.26. **“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.

- 4.27. **“Research Record”** means the record of data or results from scholarly inquiry, including, without being limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, books, and other publications of any kind in any media and any material in any media necessary to support the content of any such document, presentation, or publication.
- 4.28. **“Retaliation”** means an adverse action taken against an 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.
- 4.29. **“Review Panel”** means a body described in **Section 6.10** below.
- 4.30. **“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.
- 4.31. **“USM member or member”** means a person who is employed by, affiliated with under a contract or agreement, or under the control of the University of Southern Maine (USM). USM members include but are not limited to faculty, students, administrators, teaching and support staff, researchers, technicians, and fellows.
- 4.32. **“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 a member of USM when the alleged research misconduct occurred.
5. **Applicable Documents:**
- 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](#)

6. **Procedure:**

6.1 **Integrity of Procedures. Safeguarding the integrity of these Procedures is critical.**

- 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.
- 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. The RIO should be informed immediately of any actual or threatened violation of the integrity of these Procedures. 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 or students, and members of Inquiry Panels, Investigative Committees, and Review Panels who are USM employees or students. 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>.

6.4. **Confidentiality.**

6.4.1. **Limited Disclosure of Allegation/Research Misconduct Proceedings.** To the extent possible consistent with a fair and thorough review of an Allegation, disclosure of an Allegation and the resulting Research Misconduct Proceedings should be limited to those who need to know about them. In amplification, and not in limitation, of the foregoing:

- 6.4.1.1. except as otherwise permitted or required by these Procedures, or as required by law, members of Review Panels, Inquiry Panels, and Investigative Committees, the Responsible Administrator, the RIO, and USM administrators involved in the review of an Allegation under these Procedures shall make diligent efforts to preserve the confidentiality of the Allegation and resulting Research Misconduct Proceedings out of respect for the privacy of those involved, especially the Respondent; and
- 6.4.1.2. if an Allegation results in an Investigation, the RIO may confidentially advise any person or entity that has plans to publish or disseminate the results of the Research to which the Allegation relates of the pending Investigation.

- 6.4.2. **Complainant Identity.** USM shall make diligent efforts to honor the request of any Complainant that her or his identity be kept confidential during the UMS's review of his or her Allegation under these Procedures.
- 6.4.3. **Breaches of Confidentiality.** The RIO should be informed immediately of breaches of confidentiality. The RIO will investigate the breach of confidentiality and refer the matter to the appropriate administrator for review and such further action, if any, as the administrator may deem appropriate.
- 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.
- 6.6. **Location of Alleged Misconduct.** An Allegation may be reviewed by USM under these Procedures no matter where or when the Research Misconduct allegedly occurred.
- 6.7. **Events Requiring Immediate Action.** If, at any stage of these Procedures, the RIO obtains reasonable information about:
 - 6.7.1. a possible criminal violation,
 - 6.7.2. an immediate health hazard or other imminent risk of danger to public health or safety or to human or animal subjects,
 - 6.7.3. 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.
 - 6.7.4. 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 Research Misconduct Proceeding,
 - 6.7.5. the need to take immediate action to prevent the loss, destruction, or adulteration of any Evidence,
 - 6.7.6. 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 UMS rule or policy, or
 - 6.7.7. the probable public disclosure of an Allegation or any Research 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.

Notwithstanding any other provision of these Procedures, appropriate USM administrators shall have authority to take any actions they deem necessary or appropriate to safeguard USM personnel, other participants in any Research Misconduct Proceeding, public health or safety, experimental subjects, sponsors' funds or equipment, Evidence, or the integrity of the research environment. That any such action 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.
- 6.8. **Notice.** Any notice or other document issued pursuant to these Procedures shall be in writing and shall 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.

6.9. **Interpretation.**

6.9.1. **Time Periods.** Unless otherwise specified in these Procedures:

6.9.1.1. the failure to exercise any right granted under these Procedures within the stated time period shall constitute a waiver of that right; and

6.9.1.2. references to days in these Procedures shall mean calendar days.

6.9.2. **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.

6.9.3. **Headings.** Headings used in these Procedures are for convenience of reference only and shall not be used for interpreting content.

6.10. **Challenges; Review by Provost/Panel.**

6.10.1. **Challenges.** The Complainant may challenge a determination by the RIO at the end of the Preliminary Assessment that no Inquiry into the Allegation is warranted, but only on the grounds that:

6.10.1.1. the Respondent's alleged conduct could constitute Research Misconduct, and

6.10.1.2. there is credible Evidence to support further review of the Allegation.

6.10.2. 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.

6.10.3. 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.

6.10.4. 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 shall be submitted to the RIO. The RIO or the Responsible Administrator, as appropriate, must respond to the challenge in writing within five business days, either accepting it and taking appropriate action, or rejecting it for stated cause.

6.10.5. **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 be in writing, must set forth the basis for the request, and must be filed with the Provost within five business days after the Respondent's or the Complainant's receipt of the RIO's or the Responsible Administrator's response to the challenge. A Respondent may request that the review be conducted either by a Review Panel or by the Provost alone. A Complainant may request that the review be conducted by the Provost or by a Review Panel, but the Respondent has the right to require that the review be conducted by the Provost.

6.10.5.1. If the review is to be conducted by a Review Panel, the Provost shall convene that Panel within five business 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.

- 6.10.5.2. Within five business 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.
- 6.10.5.3. 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 business days of the filing of the request for review.
- 6.10.6. **Extensions of Time.** The deadlines in this Section 8.10 may be extended by the RIO through written notice to the parties for good cause shown.
- 6.10.7. **Other Objections and Complaints.** If the Complainant or Respondent objects to any other decision, procedural or substantive, made during the current or any previous Research Misconduct Proceeding in the review of the Allegation, he or she may raise that objection:
 - 6.10.7.1. with the RIO during the Preliminary Assessment;
 - 6.10.7.2. with the Inquiry Panel during the Inquiry;
 - 6.10.7.3. with the Investigative Committee during the Investigation; and
 - 6.10.7.4. with the Provost during an internal appeal under **Section 6.23** below.
- 6.10.8. 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.
- 6.11. **Role of the RIO**
 - 6.11.1. 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.
 - 6.11.2. The RIO shall serve as an advisor to Inquiry Panels and Investigative Committees with no voting privileges. If so requested, the RIO shall provide logistical support, recruit expert witnesses, and arrange for legal advice through the UMS Counsel.
 - 6.11.3. When an Allegation involves Research supported by a federal funding source, the RIO shall see that USM meets all legal requirements to apprise if 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.
 - 6.11.4. The RIO shall identify the Responsible Administrator. The RIO also shall disqualify any Responsible Administrator, and any potential or sitting member of an Inquiry Panel or Investigative Committee, if the RIO determines that such person has a Conflict of Interest.
 - 6.11.5. The RIO shall take all reasonable and practical steps as outlined in the "[Sequestering of Research Records SOP](#)" to obtain custody of all the 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.

- 6.11.6. Research Misconduct Proceeding 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, except that the RIO shall keep Preliminary Assessment reports and related Misconduct Proceeding Records for three years after the completion of the Preliminary Assessment to which they relate and then destroy them.
- 6.11.7. Other RIO responsibilities are set forth elsewhere in these Procedures.
- 6.12. **Other Internal or External Proceedings.**
- 6.12.1. 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:
- 6.12.1.1. **Other Institution's Review.** Another educational or research institution may have the right to review the same Allegation (or a related Allegation) against 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 **6.17** below. USM and the other institution may also agree to conduct a joint review of the Allegation.
- 6.12.1.2. **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 review of the Allegation and the related allegation involving the collaborator.
- 6.13. **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 6.17** below.
- 6.14. **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 Research Misconduct Proceeding as set forth in **Section 6.17** below, until the criminal investigation or proceeding is complete.

- 6.15. **Civil Litigation.** The existence of civil litigation involving USM may necessitate staying a Research Misconduct Proceeding. The Provost shall make such decisions under the authority set forth in **Section 6.17** below on a case-by-case basis and promptly report them to the RIO.
- 6.16. **RIO Stay of Proceedings.** The RIO shall have authority to stay any Research 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).
- 6.17. **Provost Authority.** The Provost as Deciding Official shall have authority to:
 - 6.17.1. stay any Research 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;
 - 6.17.2. 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;
 - 6.17.3. stay any Research Misconduct Proceeding until the completion of an independent investigation by a federal funding source of an Allegation involving Research of which it supported;
 - 6.17.4. stay any Research Misconduct Proceeding until the completion of Civil Litigation and/or criminal investigation or proceeding is complete;
 - 6.17.5. 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.
- 6.18. **Precedence of Proceedings.** Subject to **Section 6.16** 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.
- 6.19. **Procedures for Conduct of Misconduct Proceedings – General.**
 - 6.19.1. **Determination of Procedures.** Those charged with conducting a Research Misconduct Proceeding shall determine the procedures that will be followed, provided that:
 - 6.19.1.1. the procedures they adopt shall be those they deem best suited to achieve a fair and equitable review of the Allegation;
 - 6.19.1.2. 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;
 - 6.19.1.3. in Preliminary Assessments and Inquiries, testimony shall be obtained from witnesses through private interviews rather than through a formal hearing;

- 6.19.1.4. in Investigations, the Investigative Committee may choose to obtain testimony from witnesses through a series of private interviews with witnesses, or at a hearing at which the Complainant and the Respondent shall be invited to be present, provided, however, that the Respondent may, within one week of receiving a notice that the Investigative Committee has decided to conduct private interviews, deliver a notice to the RIO requiring that a hearing be conducted instead of such interviews;
- 6.19.1.5. at a hearing, the Respondent and the Complainant shall have the opportunity to raise questions for the Investigative Committee to pose to each witness about the testimony of that witness and the Allegation;
- 6.19.1.6. if a Complainant who has requested that his or her identity be kept confidential declines to appear to give testimony at a hearing, the hearing may nevertheless be held, if the Investigative Committee determines that there is credible Evidence of possible Research Misconduct by the Respondent apart from the Complainant's Allegation and that such Evidence is sufficient to justify proceeding with the hearing;
- 6.19.1.7. the Respondent shall have the right to be advised by Counsel in all Research Misconduct Proceedings;
- 6.19.1.8. the Complainant shall have the right to be advised by an Advisor in all Research Misconduct Proceedings;
- 6.19.1.9. in all Preliminary Assessments, Inquiries, and Investigations, the Respondent shall have the right to present Evidence and to identify persons who might have Evidence about the Allegation;
- 6.19.1.10. formal rules of evidence shall not apply;
- 6.19.1.11. each Research Misconduct Proceeding shall be conducted confidentially and in private except that, in the event of a hearing, the Investigative Committee may decide that it will be open if requested by the Respondent and if permissible under applicable regulations; and
- 6.19.1.12. 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.
- 6.19.2. At the start of each Research Misconduct Proceeding, the RIO shall notify the Complainant and the Respondent of the procedures that will be followed during that Research Misconduct Proceeding.
- 6.19.3. **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.

- 6.19.4. **Respondent Questions.** The RIO shall contact the Respondent at the start of each Research Misconduct Proceeding and attempt to answer any questions about that Misconduct Proceeding.
- 6.19.5. **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.
- 6.19.6. **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 Research Misconduct Proceeding Records that such personnel request.
- 6.19.6.1. **Public Health Service (PHS) funded research.** USM will retain the evidence in custody until all PHS actions are complete. ORI may request copies of the relevant evidence, if not already appended to the report, and it may be necessary to turn over custody of the original evidence to Federal officials.
- 6.19.7. **Additional Respondents.** If, during the course of any Research 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 Research Misconduct Proceedings against all the Respondents.
- 6.20. **Allegations of Research Misconduct and Preliminary Assessments**
- 6.20.1. **Allegation of Research Misconduct.** Any member of USM community or other person who wishes to make an Allegation shall contact the RIO. USM members 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-rsearch-misconduct>.
- 6.20.1.1. The RIO shall notify the Respondent promptly of an Allegation and of the Respondent's right to be advised by Counsel during all Research Misconduct Proceedings.¹
- 6.20.1.2. The RIO shall advise the Provost of all Allegations.
- 6.20.2. **Preliminary Assessment.** In the event of an Allegation, the RIO shall promptly conduct a Preliminary Assessment to determine whether an Inquiry is warranted.
- 6.20.2.1. **Purpose and Nature of Preliminary Assessment.** The Preliminary Assessment is a preliminary 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

¹ If the Respondent requests, the RIO will assist the Respondent in locating faculty members who are familiar with the Procedures and who might be willing to serve as Counsel.

conducting the Preliminary 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.

6.20.2.2. **Preliminary Assessment - Standard for Determination.** The RIO shall determine that an Inquiry is warranted if, in his or her judgment:

6.20.2.2.1.

the Respondent's alleged conduct could constitute Research Misconduct or Unacceptable Research Practices, and

6.20.2.2.2.

there is credible Evidence to support further review of the Allegation.

6.20.3. **Inquiry Warranted.** If the RIO determines that an Inquiry is warranted, the RIO shall prepare a Preliminary Assessment referral, which explains the basis for his or her determination. The RIO shall transmit copies of the Preliminary Assessment referral to the Respondent and the Provost. The RIO shall also notify the Complainant of the outcome of the Preliminary Assessment and provide the Complainant with a brief summary of the Preliminary Assessment referral.

6.20.3.1. After completing the Preliminary Assessment referral, the RIO shall identify the Responsible Administrator, who shall then immediately initiate an Inquiry.

6.20.4. **Inquiry Not Warranted.**

6.20.4.1. **Preliminary Assessment Report.** If the RIO determines that an Inquiry is not warranted, the RIO shall prepare a Preliminary Assessment report that states the basis and rationale for his or her determination. The RIO shall provide a copy of the Preliminary Assessment report to the Respondent, the Complainant, and the Provost.

6.20.4.2. **Challenge.** Within ten days following receipt of the Preliminary Assessment report, the Complainant may challenge the RIO's determination that an Inquiry is not warranted, pursuant to **Section 6.8** above, but only on the grounds that:

6.20.4.2.1.

the Respondent's alleged conduct could constitute Research Misconduct, and

6.20.4.2.2.

there is credible Evidence to support further review of the Allegation.

6.20.4.3. **End of Review.** The RIO's determination that an Inquiry is not warranted, unless overturned pursuant to **Section 6.10** above, shall conclude USM's review of that Allegation.

6.20.5. **Bad Faith.** If the RIO 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 Preliminary Assessment, the RIO shall refer the matter for administrative review and appropriate action as set forth in **Section 6.26** below.

6.21. **Inquiry.**

- 6.21.1. **Panel.** If the RIO or, pursuant to **Section 6.10** above, the Provost or a Review Panel determines that an Inquiry is warranted, the Responsible Administrator shall promptly 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. When a student is the Respondent, at least one student shall be a member of the Inquiry Panel. The Inquiry Panel shall select one of its members to act as its chairperson.
- 6.21.2. **Charge.** The Responsible Administrator, with the assistance of the RIO, shall draft a Charge to the Inquiry Panel based upon the Preliminary Assessment referral. The Responsible Administrator shall submit that Charge and a copy of the Preliminary Assessment referral to the Inquiry Panel and the Respondent at the beginning of the Inquiry.
- 6.21.3. **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.
- 6.21.4. **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 6.22.2.5** below, that Research Misconduct occurred.
- 6.21.5. **Purpose and Nature of Inquiry.** Like the Preliminary Assessment, the Inquiry is a preliminary process. Its purpose is 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 Preliminary 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.
- 6.21.6. **Assistance for Panel.** The RIO shall secure for the Inquiry Panel such special scientific or technical assistance as it requests to evaluate an Allegation.
- 6.21.7. **RIO and Responsible Administrator.** Neither the RIO nor the Responsible Administrator shall participate in the deliberations of the Inquiry Panel or vote on whether an Investigation is warranted. The Inquiry Panel may request the assistance of the RIO during its deliberations and in the preparation of the Inquiry report, but shall not seek the RIO's opinion as to whether an Investigation is warranted.

6.21.8. **Timing.** The Inquiry shall be completed within 60 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 so 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 60 days. The RIO shall make the Responsible Administrator's report about the delay part of the Misconduct Proceeding Records.

6.21.9. **Inquiry Report.**

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

6.21.9.1.1.

the name and position of the Respondent if the Respondent is an employee of USM, or the name and degree program of the Respondent if the Respondent is a student at USM;

6.21.9.1.2.

the nature of the alleged Research Misconduct and how it does or does not fit within the definition of Research Misconduct;

6.21.9.1.3.

a description of the Evidence it reviewed and the sufficiency, credibility, and merit of that Evidence;

6.21.9.1.4.

summaries of any interviews it conducted; and

6.21.9.1.5.

a determination of whether an Investigation is warranted.

6.21.9.2. **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.

6.21.9.3. **Investigation Warranted.** If the Inquiry Panel determines that an Investigation is warranted, the Inquiry report may be summary in nature, provided that the Inquiry Panel sets 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.

6.21.9.4. **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.

6.21.9.5. **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.

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

6.21.9.6.1.

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:

6.21.9.6.1.1.

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 so 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.

6.21.9.6.1.2.

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.

6.21.9.6.1.3.

The opinion by the Provost shall be included as an appendix to the

final Inquiry report.

6.21.9.6.1.4.

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

6.21.10. **Determination regarding Investigation.**

6.21.10.1. **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.

6.21.10.2. **Provost Override - 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.

6.21.10.3. **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 6.23** below.

6.21.10.4. **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.

6.21.10.5. **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 6.22.3.6** below.

6.21.10.6. **Notification.** Promptly after completion of the Inquiry, the RIO shall notify the Complainant of its outcome and provide the Complainant with a brief summary of the Inquiry report and, if one was issued, the opinion of the Provost.

6.22. **Investigation**

6.22.1. **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. When a student is the Respondent, at least one student shall be a member of the Investigative Committee. The Investigative Committee shall select one of its members to act as its chairperson.

6.22.2. **Notifications.**

- 6.22.2.1. **Notification - Internal.** The RIO shall notify the Provost and the UMS Counsel of the initiation of the Investigation.
- 6.22.2.2. **Notification - Funding Source.** When the alleged Research Misconduct involves Research supported by an external (non-USM) funder, the RIO shall also notify the source of the funding of the Investigation before the start of the Investigation. Such 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.
- 6.22.2.3. **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 Preliminary Assessment referral, 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.
- 6.22.2.4. **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.
- 6.22.2.5. **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:
- 6.22.2.5.1.
a significant departure from accepted practices of the relevant research community; and
- 6.22.2.5.2.
that the Research Misconduct was committed intentionally, knowingly, or recklessly; and
- 6.22.2.5.3.
that the Allegation was proven by a Preponderance of the Evidence.
- 6.22.2.6. **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.
- 6.22.2.6.1.
The Respondent will be provided copies of, or supervised access to, all Evidence made available to the Investigative Committee.

- 6.22.2.7. **Testimony.**
- 6.22.2.7.1.
Interviews or Hearing. When possible, the Investigative Committee shall conduct interviews or a hearing with the Complainant, the Respondent, and other persons, if any, who have material information regarding the Allegation.
- 6.22.2.7.2.
Recording. The RIO shall arrange for digital audio recording of each witness's interview or hearing testimony. The audio recording shall be made part of the Research Misconduct Proceeding Records. The RIO shall give the Respondent a copy of the audio recording of any interview or hearing testimony.
- 6.22.2.8. **Assistance for 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.
- 6.22.2.9. **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.
- 6.22.2.10. **Timing.** The Responsible Administrator and Investigative Committee shall use their best efforts to complete the Investigation within 120 days of its inception.
- 6.22.2.10.1.
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 Research 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.
- 6.22.2.10.2.
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.

6.22.3. **Investigation Report.**

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

6.22.3.1.1.

the name and position of the Respondent if the Respondent is an employee of USM or the name and degree program of the Respondent if the Respondent is a student at USM;

6.22.3.1.2.

the relevant application or grant number, if the alleged Research Misconduct involves sponsored Research;

6.22.3.1.3.

a description of the Allegation and the name, if known and not held in confidence, of the Complainant;

6.22.3.1.4.

a summary of the Evidence reviewed, including, without being limited to, an account of how and from whom it was obtained;

6.22.3.1.5.

a copy of the audio recording of each interview or hearing conducted during the Investigation;

6.22.3.1.6.

for each separate Allegation, an analysis of any explanation offered by the Respondent and the Evidence in support thereof;

6.22.3.1.7.

an analysis of each separate Allegation pursuant to the standards set forth in **Section 6.22.2.5** above;

6.22.3.1.8.

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

6.22.3.1.9.

a copy of these Procedures and any other UMS policies and procedures relevant to the Investigation.

6.22.3.1.10.

Research Misconduct Finding. If the Investigative Committee finds that Research Misconduct occurred, the Investigation report must include the Investigative Committee's determination that:

6.22.3.1.10.1. there was a significant departure from accepted practices of the relevant research community; and

6.22.3.1.10.2.

the Research Misconduct was committed intentionally, knowingly, or recklessly; and

6.22.3.1.10.3.

the Allegation was proven by a Preponderance of the Evidence; and

6.22.3.1.10.4.

a determination whether any part of the Research Record needs correction or retraction as a result of the finding of Research Misconduct, and, if so, an explanation of that correction or retraction.

6.22.3.2. **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 6.22.2.5** above.

6.22.3.3. **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.

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

6.22.3.4.1.

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:

6.22.3.4.1.1.

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 so 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.

6.22.3.4.1.2.

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.

6.22.3.4.2.

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

6.22.3.5. **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.

6.22.3.6. **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 Research Misconduct Proceeding, the Investigative Committee shall refer the matter for administrative review and appropriate action as set forth in **Section 6.26.1.1** below.

6.22.3.7. **Final Report; Provost Overrule.**

6.22.3.7.1.

Copy to Provost. The RIO shall send the Provost a copy of the final Investigation report.

6.22.3.7.2.

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.

6.22.3.7.3.

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 6.23** below, the second Investigative Committee's determination shall be binding.

6.22.3.8. **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 Research Misconduct Proceeding Records.

6.22.3.9. **Notifications.**

6.22.3.9.1.

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.

6.22.3.9.2.

Federal Support. When the alleged Research Misconduct involves Research supported by a federal funding source, the RIO shall submit the Investigation report 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.

6.22.3.9.3.

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.

6.23. **Appeal**

6.23.1. **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.

6.23.2. **External Appeal Record.** If the Respondent appeals a finding of Research Misconduct by an Investigative Committee to a federal funding source, the RIO shall attempt to obtain copies of all documents filed in that appeal.

6.23.3. **Procedure.**

6.23.3.1. **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.

6.23.3.2. **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 Research Misconduct Proceeding Records and the appeal and make recommendations to the President.

- 6.23.3.3. **Request for Additional Information.** The President, or the President's designee, may request further information about the Research Misconduct Proceedings in writing from the RIO. A copy of such information shall be provided to the Respondent.
- 6.23.3.4. **Basis for Decision.** The President's decision on the appeal shall be based on the Research Misconduct Proceeding Records, as clarified or supplemented by the RIO in response to any request for further information about the Research Misconduct Proceedings, and the Respondent's appeal.
- 6.23.3.5. **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.
- 6.23.3.6. **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.

6.24. **Final Resolution and Outcome.**

- 6.24.1. **Exoneration.** If the Preliminary 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 diligent 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:
 - 6.24.1.1. be reasonable and practicable under the circumstances and proportionate to the damage to the Respondent's reputation as a result of the Allegation;
 - 6.24.1.2. 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
 - 6.24.1.3. 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.

6.24.2. **Research Misconduct Found.**

6.24.2.1. **Actions.** When there is a final nonappealable decision that Misconduct has occurred:

6.24.2.1.1.

the Responsible Administrator, after consultation with the Provost, shall take appropriate actions in response to the finding of Research Misconduct. Such actions may include:

6.24.2.1.1.1.

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

6.24.2.1.1.2.

referring the finding of Research Misconduct to another administrator who has authority to impose sanctions and initiate disciplinary proceedings; and

6.24.2.1.1.3.

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.

6.24.2.1.1.4.

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.

6.24.2.1.1.5.

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.

6.24.2.1.1.6.

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.

6.24.3. **New Evidence.** If, following a final nonappealable 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.

6.24.4. **Termination.** If the Provost terminates the review of any Allegation under **Section 6.17.2, Section 6.17.4, or Section 6.19.6**, an explanation for such termination shall be included in the Research Misconduct Proceeding Records.

6.25. **Unacceptable and Questionable Research Practices.**

6.25.1. **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.

6.25.2. **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.

6.26. **Bad Faith.**

6.26.1. **Complainant or Witness.**

6.26.1.1. **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 Research Misconduct Proceeding, the matter shall be referred to the appropriate administrator for review. The administrator may deem further action appropriate, including disciplinary action.

6.26.1.2. **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.

6.26.2. Panel and Committee Members, Responsible Administrator, RIO.

6.26.2.1. **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.

6.26.2.2. **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:

6.26.2.2.1.

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 Research Misconduct Proceeding so affected and any subsequent Research Misconduct Proceedings in which the same Allegation was reviewed, and initiating new Research Misconduct Proceedings to substitute for those abrogated; and

6.26.2.2.2.

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.

6.26.2.3. **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.

6.27. **Protecting Participants in Misconduct Proceedings.**

6.27.1. **Protection of Position and Reputation.** USM shall make diligent efforts to protect the position and reputation of each individual who has, in Good Faith, participated in a Research Misconduct Proceeding as a Complainant, witness, Review Panel member, Inquiry Panel member, Investigative Committee member, Counsel, Advisor, Responsible Administrator, or RIO, or who has otherwise cooperated in the review of an Allegation under these Procedures. These efforts shall be:

6.27.1.1. reasonable and practical under the circumstances;

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

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

- 6.27.2. **Retaliation.**
 - 6.27.2.1. **Prohibition.** USM members shall not engage in or threaten Retaliation.
 - 6.27.2.2. **Procedure.** The standard operating procedure (SOP) for submitting formal retaliation complaints as well as the process for resolving the complaints is found in the “[Anti-Retaliation Policy for Reporting of Misconduct in Research SOP.](#)”
 - 6.27.2.3. **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.
 - 6.27.2.4. **Protection against Retaliation.** USM shall make diligent efforts to provide protection against Retaliation by individuals who are not USM 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.
- 6.28. Provisions for Changing these Procedures.
 - 6.28.1. 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 forward any such recommended changes of which it approves to the Institutional Review Board (IRB) as proposed amendments to these Procedures. If approved by the IRB, the proposed amendments shall be forwarded to the Provost. The Provost shall have final authority and control over these Procedures.
 - 6.28.2. 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 research 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 twice a year, 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 an online training module.
 - 8.2.1. The following grant personnel **must** attend **one** of these training sessions every **four** years:

- 8.2.1.1. **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.*
- 8.2.1.2. **For NSF grants:** Any students (undergraduates and graduates) and postdoctoral researchers who receive NSF funds (support from salary and/or stipends to conduct research on NSF grants).
- 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: <http://usm.maine.edu/orio/rcr-training> .