

Lake Superior State University Research Misconduct Policy and Procedure

Date of Present Issue: February 27, 2024

I. Introduction

A. Purpose

Lake Superior State University (LSSU) supports integrity in research and in all professional conduct. The advances in, and benefits from, scholarly research and scholarship relies heavily upon the reliability of the research, the conduction of the research, and the publishing of the research results. Breaches of integrity are serious matters and treated as such.

Misconduct in Research, Scholarly, and Creative Endeavors (hereafter Misconduct) has consequences for LSSU, the individual, and the entire research initiative. It can cost researchers, staff, and students their careers. It also can do serious harm to the reputation of LSSU. Sustained public trust in the research initiative requires confidence in the research record and in the practices involved in its ongoing development. Because it violates public trust, and it is the public that ultimately funds the research initiative, misconduct can harm the organizations that fund and publish the results of research.

The primary responsibility for maintaining standards of intellectual integrity rests with individual scholars and with the departments in which they work. However, the University as a whole shows its support for research by (1) providing an environment of open inquiry where research can be conducted appropriately, (2) clearly stating the research standards that must not be retracted, and (3) enforcing the standards on those occasions where violations may have occurred. The purpose of this document is to set forth the procedures by which LSSU seeks to maintain and enforce such standards through impartial fact-finding and fair adjudication of allegations of misconduct.

B. Scope

This statement of policy and procedures is intended to carry out this institution's responsibilities under the Public Health Service (PHS) Policies on Research Misconduct, 42 CFR Part 93. This document applies to allegations of research misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results) involving:

- A person who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with this institution; and
- (1) PHS support biomedical or behavioral research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information, (2) applications or proposals for PHS support for biomedical or behavioral research, research training or activities related to that research or research training, or (3) plagiarism of research records produced in the course of PHS supported research, research training or activities related to that research or research training. This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal for PHS funds resulted in a grant, contract, cooperative agreement, or other form of PHS support.

This statement of policy and procedures does not apply to authorship or collaboration disputes and applies only to allegations of research misconduct that occurred within six years of the date the institution or HHS received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR § 93.105(b).

II. Definitions and Overview of Procedures

A. Misconduct in Research and Scholarly and Endeavors Defined

- **Research Misconduct** means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results and other practices that significantly depart from those that are commonly accepted within the relevant research community for proposing, performing, or reporting research.
- **Fabrication** is making up data or results and recording or reporting them.
- **Falsification** is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.
- **Plagiarism** is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- **Research misconduct** does not include honest error or differences of opinion (93.103).

The following other types of practices are also defined as Misconduct:

- Violation of any criminal or civil law in obtaining, analyzing, or reporting data.
- Applying for federal funding while under federal suspension or debarment, or knowingly utilizing as a co-principal investigator, technician, or consultant a person who is suspended or debarred.
- Failure to maintain a record of primary data with the intent to deceive; e.g., destroying laboratory notebooks (whether written or electronic), survey forms, microscope reference slides, computer or other machine printouts with the intent to deceive.
- Failure to report known or suspected acts of misconduct on the part of others, including the act of knowingly withholding or destroying evidence which would be crucial in an investigation of misconduct.
- Abuse of confidentiality when gathering or reporting data; e.g., releasing data gathered during privileged communication.
- Use of honorary authorship, without the person's consent, and/or with the intent to deceive.
- Without being involved with the research in question, making a demand to be listed as an author on a researcher's publication, solely because the person making the demand is in a position of authority over the researcher.

B. Findings of Misconduct

A finding of misconduct requires that:

- there must be a **significant departure** from accepted practices of the relevant research community; and
- the misconduct be **committed intentionally, knowingly, or recklessly**; and
- the allegation is **proven by a preponderance of evidence** (93.104).

C. Multiple Phases of the Response to an Allegation of Misconduct

A response to an allegation of misconduct consists of three phases, including:

- an **inquiry** - the assessment of whether the allegation has substance and if an investigation is warranted;
- an **investigation** - the formal development of a factual record, and the examination of that record leading to dismissal of the case or to a recommendation for a finding of misconduct or other appropriate remedies; and
- **adjudication** - during which recommendations are reviewed and appropriate corrective actions are determined.

D. Definitions

Allegation means disclosure of possible research misconduct through any means of communication to an institutional official from either an internal or external source (93.201).

Complainant means a person who makes a good faith allegation of scientific misconduct (93.203).

Conflict of Interest is when actual bias or the appearance of bias exists due to a person's prior or existing personal or professional relationships that could compromise his or her impartiality.

Deciding Official means the institutional official who makes final determinations on allegations of scientific misconduct and any responsive institutional actions. The Deciding Official at LSSU is the Vice President of Academic Affairs/Provost.

Good Faith Allegation means an allegation made with the honest belief that scientific misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for, or willful ignorance of, facts that would disprove the allegation.

Inquiry means gathering information and initial fact-finding to determine whether an allegation or apparent instance of scientific misconduct warrants an investigation (follows the procedures of 42 CFR 93.307 - 93.309).

Investigation means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred and, if so, to determine the responsible person and the seriousness of the misconduct.

ORI means the Office of Research Integrity, the office within the U.S. Department of Health and Human Services (DHHS) that is responsible for the scientific misconduct and research integrity activities of the U.S. Public Health Service.

Research means a systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) relating broadly to public health by establishing, discovering, developing, elucidating or confirming information about, or the underlying mechanism relating to, biological causes, functions or effects, diseases, treatments, or related matters to be studied (93.222).

Research Integrity Officer means the institutional official responsible for assessing allegations of scientific misconduct and determining when such allegations warrant inquiries and for overseeing inquiries and investigations.

Research Record means any data, document, computer file, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of scientific misconduct. A research record includes, but is not limited to, grant or contract applications, grant or contract progress and other reports, laboratory notebooks, notes, correspondence, videos, photographs, x-ray film, slides, biological materials, computer files or printouts, manuscripts and publications, equipment-use logs, laboratory procurement records, animal facility records, human and animal subject protocols, consent forms, medical charts, and patient research files (93.224).

Respondent means the person against whom an allegation of scientific misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one Respondent in any inquiry or investigation (93.225).

Retaliation means any adverse action taken against a Complainant, Witness or committee member by any person paid by, under the control of, or affiliated with the University in response to a good faith allegation of misconduct or good faith cooperation with a misconduct proceeding in response to an allegation of misconduct.

The University will protect any individual involved in research misconduct proceedings from any retaliatory actions. No individual shall engage in actions that are, or could be perceived as, retaliatory against any individual involved with the proceedings. Adverse actions towards individuals participating in this process are strictly prohibited and will be addressed accordingly. Individuals who feel they are being retaliated against should immediately contact the RIO, or the Deciding Official. The RIO or Deciding Official will promptly take all appropriate steps to protect the individual from retaliation, provided the allegations were made in good faith.

III. Rights and Responsibilities

A. Research Integrity Officer

The University's Vice President for Academic Affairs/Provost will appoint the Research Integrity Officer (RIO) who will have primary responsibility for implementation of the procedures set forth in this document. The RIO will be a tenured faculty member and/or academic administrator. The RIO will

handle the procedural requirements involved and will be sensitive to the varied demands made on those who conduct research, those who are accused of misconduct, and those who report apparent misconduct in good faith. The current RIO is Kristina Olson-Pupek, Professor of Psychology (kolsonpupek@lssu.edu).

The RIO will attempt to ensure that confidentiality is maintained.

The RIO will assist all University personnel in complying with these procedures and with applicable standards imposed by the government or other external funding sources. The RIO is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files.

B. Complainant

The Complainant will have an opportunity to present information to the preliminary Inquiry and Investigations committees, to review portions of the inquiry and investigations reports pertinent to his/her allegations or testimony, to be informed of the results of the inquiry and investigation, and to be protected from retaliation. Also, if the RIO has determined that the Complainant may be able to provide pertinent information on any portions of the draft reports these portions will be given to the Complainant for comment.

The Complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation.

C. Respondent

The Respondent will be informed of the allegations when an inquiry is opened and notified in writing of the final determinations and resulting actions. The Respondent will also have the opportunity to be interviewed by and present evidence to the inquiry and investigations committees, to review the draft inquiry and investigation reports, and to independently have the advice of counsel.

The Respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry or investigation. If the Respondent is not found to have engaged in scientific misconduct, he or she has the right to receive University assistance in restoring his or her reputation.

D. Deciding Official

The Deciding Official at LSSU is the Vice President for Academic Affairs/Provost. The current Deciding Official is Lynn Gillette, Provost (provost@lssu.edu). They will receive the inquiry and/or investigation report and any written comments made by the Respondent or the Complainant on the draft report. The Deciding Official will consult with the RIO or other appropriate officials and will determine whether to conduct a formal inquiry about whether misconduct occurred, whether to impose sanctions, or whether to take other appropriate administrative actions.

IV. General Policies and Principles

A. Responsibility to Report Misconduct

All employees or individuals associated with LSSU, including faculty, staff, and students, must report observed, suspected, or apparent misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of misconduct, he or she may call the RIO to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

A University employee may have confidential discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.

The University encourages reasonable efforts to be made to resolve issues of alleged misconduct prior to the beginning of formal administrative procedures. If an individual believes there are grounds for making an allegation of misconduct, said individual may initially notify the RIO, who will use his/her good faith efforts to resolve the individual's concerns informally. The administrative procedures described in this document (other than safeguards of confidentiality, and protection of Complainant, Respondent, and Witnesses) shall not be applicable to any such informal process.

In the event that the concerns of any individual are not resolved informally to the satisfaction of said individual, said individual may make a formal allegation of misconduct, and the administrative procedures described in this document then apply.

B. Cooperation with Research Misconduct Proceedings

Institutional members will cooperate with the RIO and other institutional officials in the review of allegations and the conduct of inquiries and

investigations. Institutional members, including respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO or other institutional officials.

C. Confidentiality

The RIO shall, as required by 42 CFR § 93.108 : (1) limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding. The RIO should use written confidentiality agreements or other mechanisms to ensure that the recipient does not make any further disclosure of identifying information.

D. Protecting complainants, witnesses, and committee members

Institutional members may not retaliate in any way against complainants, witnesses, or committee members. Institutional members should immediately report any alleged or apparent retaliation against complainants, witnesses or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

E. Protecting the Respondent

Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the respondent(s) in the inquiry or investigation and confidentiality to the extent possible without compromising public health and safety.

A University employee accused of misconduct may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or Witness in the case) to seek advice. The university employee may bring the counsel or personal adviser to interviews or meetings on the case. The attorney or other representative may not actively participate in the proceeding such as through directing questions, answers, or speaking on behalf of the subject of the allegations.

If the Respondent is a student, the Dean of the appropriate school of study or the Vice President for Student Affairs should be asked to appoint an advocate to advise the student of the process.

F. Protecting the Complainant

The RIO will monitor the treatment of individuals who bring allegations of misconduct or of inadequate institutional response thereto, and those who cooperate in inquiries or investigations. The RIO will ensure that these persons will not be retaliated against in the terms and conditions of their employment or other status at the University, and will review instances of alleged retaliation for appropriate action.

All individuals involved in research misconduct proceedings will be notified of the University's prohibition of any adverse actions towards individuals participating in research misconduct proceedings and that any allegations of potential retaliation will be addressed accordingly.

Employees should immediately report any alleged or apparent retaliation to the RIO. The institution will also protect the privacy of those who report misconduct in good faith to the maximum extent possible. For example, if the Complainant requests anonymity, the institution will make an effort to honor the request during the allegation assessment or inquiry within applicable policies and regulations and state and local laws, if any. The Complainant will be advised that if the matter is referred to an investigation committee and the complainant's testimony is required, anonymity may no longer be guaranteed. The University will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

G. Cooperation with Inquiries and Investigations

University employees will cooperate with the RIO and other University officials during the review of allegations and the conduction of inquiries and investigations. Employees have an obligation to provide relevant evidence to the RIO or other University officials on misconduct allegations.

H. Preliminary Assessment of Allegations

Upon receiving an allegation of misconduct, the RIO will assess the allegation within five (5) business days to determine whether there is sufficient evidence to warrant an inquiry, whether agency support or applications for funding are involved, and whether the allegation falls under the definition of misconduct.

V. Conducting the Inquiry

A. Initiation and Purpose of the Inquiry

Following the preliminary assessment, if the RIO determines that the criteria for an inquiry are met, he or she will immediately initiate the inquiry process. The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the Respondent, Complainant, and key Witnesses to determine whether there is sufficient evidence of possible misconduct to warrant an investigation. The purpose of the inquiry is **not** to reach a final conclusion about whether misconduct definitely occurred or who was responsible. The findings of the inquiry must be set forth in an inquiry report.

B. Sequestration of the Research Records

After determining that an allegation falls within the definition of misconduct, the RIO must ensure that all original research records, computer files, and any materials relevant to the allegation are immediately secured. All evidence should be inventoried and sequestered in a secure manner, except that where the research records or evidence encompass scientific instruments shared by multiple users custody may be limited to copies of the data or evidence on the instruments, as long as those copies are substantially equivalent to the evidentiary value of the instruments. The Respondent may also request sequestration of additional records.

C. The Inquiry Committee

The RIO, in consultation with other institutional officials as appropriate, will appoint an Investigatory Committee and committee chair within ten (10) University days of the initiation of inquiry. The Inquiry Committee should consist of individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegation, interview the principals and key Witnesses, and conduct the inquiry. These individuals may be scientists, subject matter experts, administrators, lawyers, or other qualified persons. They may be from inside or outside the institution (93.304 b).

D. Notification

The RIO will notify the Respondent of the allegations of misconduct and of the Inquiry Committee membership within ten (10) University days. If the Respondent submits a written objection to any appointed member of the Inquiry Committee based on bias or conflict of interest within five (5) University days, the RIO will determine whether to replace the challenged member or expert with a qualified substitute.

E. Charge to the Committee and the First Meeting

The RIO will prepare a charge for the Inquiry Committee that (1) describes the allegations and any related issues identified during the allegation assessment, and (2) states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the Respondent, Complainant, and key Witnesses to determine whether there is sufficient evidence of possible misconduct to warrant an investigation. The purpose is **not** to determine whether misconduct occurred or who was responsible.

At the committee's first meeting, the RIO will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry; assist the committee with organizing plans for the inquiry; and answer any questions raised by the committee. The RIO will be present or available throughout the inquiry to advise the committee as needed.

F. Inquiry Process

The Inquiry Committee will normally interview the Complainant, the Respondent, and key Witnesses as well as examine relevant research records and materials. The Inquiry Committee will evaluate the evidence and the testimony obtained during the inquiry. After consultation with the RIO (and a University attorney if deemed necessary), the committee members will decide whether there is sufficient evidence of possible misconduct to recommend further investigation. The scope of the inquiry does **not** include deciding whether misconduct definitely occurred, determining who is responsible, or conducting exhaustive interviews and analyses.

G. Recommendations

Two recommendations may result from this initial inquiry: 1) the allegations have sufficient substance to warrant further investigation; or 2) the allegations are without merit. In either case, subsequent action may be recommended including such action as is necessary to restore the reputations of persons whose alleged misconduct has not been confirmed and to protect those persons having made good faith allegations.

H. Time Limit for Completing Inquiry Report

The Inquiry Committee will complete the inquiry and submit its report, in writing, to the RIO no more than sixty (60) calendar days following its first meeting, unless the RIO approves an extension for good cause. If the RIO approves an extension, the reason for the extension will be entered into the

records of the case and the report. The Respondent also will be notified of the extension.

VI. The Inquiry Report

A. Elements of the Inquiry Report

A written inquiry report must be prepared that states the name and position of the Respondent, committee members, any consulting experts, the allegations, and funding agencies, a summary of the inquiry process, a list of the research records reviewed, summaries of any interviews, a description of the evidence in sufficient detail to demonstrate whether an investigation is warranted or not; and the committee's determination as to whether an investigation is recommended and whether any other actions should be taken if an investigation is not recommended. An attorney representing the University may review the report for legal sufficiency.

B. Comments on the Draft Report by the Respondent and the Complainant

The RIO will provide the Respondent a copy of the draft inquiry report for comment and rebuttal and will provide the Complainant, if he or she is identifiable, with portions of the draft inquiry report that address the Complainant's role and opinions in the investigation.

The RIO may establish conditions for review to protect the confidentiality of the draft report.

Receipt of Comments: Within ten (10) business days of their receipt of the draft report or excerpts from the draft report, the Complainant and Respondent will provide their comments, if any, to the Inquiry Committee. Any comments that the Complainant or Respondent submits on the draft report will become part of the final inquiry report and record. Based on the comments, the Inquiry Committee may revise the report as appropriate.

C. Inquiry Decision and Notification

1. Decision by Deciding Official

The RIO will transmit the final report and any comments to the Deciding Official, who will make the determination in writing of whether findings from the inquiry provide sufficient evidence of possible misconduct to justify conducting an investigation. The inquiry is completed when the Deciding Official makes this determination, which shall be within ten (10) University days of the Deciding Official's receipt of the final inquiry report. Any extension

of this period shall be based on good cause and recorded in the inquiry file.

2. Notification

The RIO will notify both the Respondent and the Complainant in writing, within five (5) University days, of the Deciding Official's decision of whether to proceed to an investigation and will remind them of their obligations to cooperate in the event an investigation is opened. The RIO will also notify all appropriate University officials of the Deciding Official's decision.

Within 30 calendar days of the DO's decision that an investigation is warranted, the RIO will provide ORI with the DO's written decision and a copy of the inquiry report. The RIO will also notify those institutional officials who need to know of the DO's decision. The RIO must provide the following information to ORI upon request: (1) the institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges to be considered in the investigation. (42 CFR § 93.309(a) and (b))

3. Documentation of Decision Not to Investigate

If the DO decides that an investigation is not warranted, the RIO shall secure and maintain for 7 years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by ORI of the reasons why an investigation was not conducted. These documents must be provided to ORI or other authorized HHS personnel upon request.

VII. Conducting the Investigation

A. Purpose of the Investigation

The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged misconduct involves clinical trials or potential harm to human subjects or the general public, or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation will be set forth in an investigation report.

B. Sequestration of the Research Records

On or before the date the investigation begins, the RIO will sequester any additional pertinent research records that were not previously sequestered during the inquiry. The need for additional sequestration of records may occur for any number of reasons, including the institution's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional Respondents, the RIO will determine whether it is necessary to notify the Respondent of the new subject matter or to provide notice to additional Respondents.

C. Appointment of the Investigative Committee

The RIO, in consultation with other University officials as appropriate, shall appoint an Investigation Committee and the committee chair within ten (10) University days of the notification to the Respondent that an investigation is planned. The Investigation Committee should consist of at least three individuals involved in the same or related field of research as the Respondent. All committee members should be free of real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegations, interview the principals and key Witnesses and conduct the investigation. The committee may also include scientists, administrators, subject matter experts, lawyers, or other qualified persons from inside or outside the institution. Individuals appointed to the Investigation Committee may also have served on the Inquiry Committee.

The RIO will notify the Respondent of the proposed committee membership within five (5) University days after approving the committee. If the Respondent submits a written objection to any appointed member of the Investigation Committee or expert within five (5) business days of receipt of notification of the committee, the RIO will determine whether to replace the challenged member or expert with a qualified substitute.

D. Charge to the Investigation Committee and the First Meeting

1. Charge to the Committee

The RIO will define the subject matter of the investigation in a written charge to the committee that describes the allegations and all related issues identified during the inquiry, defines misconduct, and identifies the name of the Respondent. The charge will state that the committee is

to evaluate the evidence and testimony of the Respondent, Complainant, and key Witnesses to determine whether, based on a preponderance of the evidence, misconduct occurred and if so, what type, to what extent, who was responsible, and its seriousness.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the committee will notify the RIO, who will determine whether it is necessary to notify the Respondent of the new subject matter or to provide notice to additional respondents.

2. The First Meeting

The RIO will convene the first meeting of the Investigation Committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The Investigation Committee will be provided with a copy of these instructions. A University attorney may be present, if deemed necessary, and will be available throughout the investigation.

E. Investigation Process

The Investigation Committee will be appointed, and the process initiated within thirty (30) calendar days of the Deciding Officer's decision to investigate.

The investigation will normally involve examination of all relevant documentation including, but not necessarily limited to, research records, computer files, proposals, manuscripts, publications, correspondence, memoranda, e-mails and notes of telephone calls. Whenever possible, the Investigation Committee should interview the Complainant(s), the Respondent(s), and other individuals who might have information regarding aspects of the allegations. Interviews of the Respondent should be audio recorded or transcribed. All other interviews will be audio recorded and transcribed or summarized. Summaries and transcripts of the interviews will be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file.

Necessary support (e.g., clerical, gathering information, Witnesses and recordkeeping) will be arranged by the RIO. Sessions with expert Witnesses may be conducted either in person or through electronic means such as telephone conference calls. Funding for essential off-campus expert Witnesses called by the Investigative Committee shall be provided by the RIO.

The Respondent shall be informed of all evidence against him/her and be provided the right to present evidence and testimony on his/her behalf. If deemed necessary by the Investigation Committee, and agreeable to both the Complainant and the Respondent, both parties may also be questioned in the presence of each other.

F. Time Limit for Completing the Investigation Report

An investigation will be completed within 120 calendar days of its initiation, with the initiation defined as the appointment of the Investigative Committee, unless the RIO approves an extension for good cause. This includes conducting the investigation, preparing the report of findings, making the draft report available to the Respondent for comment, submitting the report to the Deciding Official for approval, and completing the final report. However, if the RIO determines that the investigation will not be completed within this 120-day period, he/she will submit to ORI a written request for an extension, setting forth the reasons for the delay. The RIO will ensure that periodic progress reports are filed with ORI, if ORI grants the request for an extension and directs the filing of such reports (93.311).

VIII. The Investigation Report

A. Elements of the Investigation Report

The final report must:

- describe the nature of the allegations of misconduct and identify the Respondent;
- describe and document agency support, if any;
- describe the specific allegations of misconduct considered in the investigation;
- include the policies and procedures under which the investigation was conducted;
- identify and summarize the records and evidence reviewed; identify any evidence taken into custody, but not reviewed; and also describe any relevant records and evidence not taken into custody and explain why it was not reviewed;
- describe how and from whom information relevant to the investigation was obtained;
- state the findings and explain the basis for the findings;

- include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct as well as a description of any recommended sanctions and administrative actions.

B. Comments on the Draft Report

1. Respondent

The RIO will provide the Respondent with a copy of the draft investigation report for comment and rebuttal. The Respondent will be allowed five (5) University days to review and comment on the draft report. The Respondent's comments will be included and considered in the final report.

2. Complainant

The RIO will provide the Complainant, if he or she is identifiable, with those portions of the draft investigation report that address the Complainant's role and opinions in the investigation. The Complainant will have five (5) University days to review and comment on the draft report. The Complainant's comments will be included and considered in the final report.

3. University Attorney

The draft investigation report may be transmitted to a University attorney for a review of its legal sufficiency. Comments should be incorporated into the report as appropriate.

4. Confidentiality

In distributing the draft report, or portions thereof, to the Respondent and Complainant, the RIO will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may request the recipient to sign a confidentiality statement.

C. Institutional Review and Decision

The RIO will submit the final report to the Deciding Official, who will make the final determination in writing whether to accept the investigation report, its findings, and the recommended University

actions. The Deciding Official may also return the report to the Investigation Committee with a request for further fact-finding or analysis. If the Deciding Official's determination varies from that of the Investigation Committee, he or she will explain in detail the basis for rendering a decision different from that of the investigation. The Deciding Official's written determination, together with the Investigation Committee's report, constitutes the final investigation report.

When a final decision on the case has been reached, the RIO will notify both the Respondent and the Complainant in writing. In addition, the Deciding Official will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published for retractions, collaborators of the Respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

IX. Requirements for Reporting to Federal Agencies

A. The RIO shall contact any relevant federal agency when federal funding is involved to determine if the specific form of misconduct, as defined in these procedures, meets the definition of research misconduct. If the misconduct falls within the agency's definition, the following procedures will apply.

B. The RIO shall report to the agency as required by regulation and keep it apprised of any developments during the course of the inquiry or investigation that may affect current or potential funding for the individual(s) under investigation or that the agency needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest. The Deciding Official's decision to initiate an investigation will be reported in writing to the agency on or before the date the investigation begins. As a minimum, the notification should include the name of the person(s) against whom the allegations have been made, the general nature of the allegations as it relates to the agency's definition of research misconduct, and the applications or grant number(s) involved. The agency will also be notified of the final outcome of the investigation and must be provided with a copy of the investigation report with attachments, including the comments of the Respondent and the Complainant. Any significant variations from the provisions of the University policies and procedures should be explained in any reports submitted to the agency.

C. If LSSU plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of any applicable regulations, the RIO will submit a report of the planned termination to the agency, including a description of the reasons for the proposed termination.

D. If LSSU determines that it will not be able to complete the investigation in one hundred twenty (120) days, the RIO will submit to the agency a written request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken. If the request is granted, the RIO will file periodic progress reports as may be requested by the agency.

E. When funding or applications for funding are involved and an admission of misconduct is made, the RIO will contact the relevant agency for consultation and advice. Normally, the individual making the admission will be asked to sign a statement attesting to the occurrence and extent of misconduct. When the case involves agency funds, the University will not accept an admission of misconduct as a basis for closing a case or not undertaking an investigation without prior approval from the agency.

F. The RIO will notify the agency at any state of the inquiry or investigation if:

1. there is an immediate health, safety, or environmental hazard involved;
2. research activities should be suspended;
3. there is an immediate need to protect Federal funds, equipment, other resources, or the agency's reputation or other interests;
4. there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;
5. it is probable that the alleged incident is going to be reported publicly; or
6. the allegation involves a public health sensitive issue, e.g., a clinical trial; or
 - a) *there is a reasonable indication of a possible civil or criminal violation. In this case, LSSU will inform the agency within 24 hours of receiving the information;*
 - b) *the scientific community or the public should be informed.*

G. The relevant agency shall be provided with a copy of the final investigation report.

X. Adjudication: University Administrative Actions

LSSU will take appropriate administrative actions against individuals when an allegation of misconduct has been substantiated.

If the Deciding Official determines that the alleged misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken. With the advice of University legal counsel and the RIO, the Deciding Official shall decide how to proceed under applicable University rules and contractual agreements. The actions may include, but are not limited to:

1. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where misconduct was found.
2. Removal of the responsible person from the particular projects, letter of reprimand, special monitoring of future work, assurances to be filed with sponsoring agencies, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment.
3. Restitution of funds as appropriate.

If the individual is a student, credit hours and the grade for the course in question may be withdrawn and the student may be suspended or expelled, or a hold placed on future registration. If the research in question was the basis of a graduate thesis or dissertation or played a significant role in the award of an undergraduate or graduate degree, the University reserves the right to withdraw the degree awarded. The student's transcript will be amended and LSSU will notify professional societies, licensing boards or other pertinent parties of the decision.

XI. Appeal

Individuals have a right to appeal decisions to the Provost and Vice President for Academic Affairs. Such appeals must be made in writing within ten (10) business days after notification of the Deciding Official's decision. The Provost and Vice President for Academic Affairs shall establish an Appeal Committee of at least three impartial members to review the matter and make recommendations. This Appeal Committee shall consist of two University faculty or staff members who are not members of previous committees, and one faculty or staff member with appropriate expertise from another organization. The Appeal Committee shall begin its deliberation within twenty (20) calendar days after the appeal has been

filed, and it shall report its findings back to the Provost and Vice President for Academic Affairs within twenty (20) calendar days after being convened. The Provost and Vice President for Academic Affairs' decision shall be submitted to the Respondent, Complainant, committees, RIO, and other University officials.

XII. Other Considerations

A. Termination of University Employment or Resignation Prior to Completing an Inquiry or Investigation

The termination of the Respondent's University employment, by resignation or otherwise, before or after an allegation of possible misconduct has been reported, will not preclude or terminate the misconduct proceedings. If the Respondent, without admitting to the misconduct, elects to resign his or her position at any time prior to or during the inquiry or investigation, but after an allegation has been reported, the inquiry or investigation will proceed as described in this document. If the Respondent refuses to participate in the process after resignation, the RIO and/or the committee(s) will use their best efforts to reach a conclusion concerning the allegations, noting in the report the Respondent's failure to cooperate and its effect on the review of all the evidence.

B. Restoration of the Respondent's Reputation

If the University finds no misconduct and NSF or other relevant agency (if sponsored funds are involved) concurs, the RIO, after consulting with the Respondent, will undertake reasonable efforts to restore the Respondent's reputation. Depending on the particular circumstances, the RIO shall notify those individuals aware of or involved in the investigation of the final outcome, including notification of the involved funding agency, if any. The RIO will publicize the final outcome in forums in which the allegation of misconduct was previously publicized, and expunge all reference to the misconduct allegation from the Respondent's personnel file. Any University actions to restore the Respondent's reputation must first be approved by the Deciding Official.

C. Protection of the Complainant and Others

Regardless of the findings, the RIO will undertake efforts to protect Complainants who made allegation of misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the Deciding Official will determine what steps, if any, are needed to restore the position or reputation of the Complainant or others cooperating in good faith, after

consulting with these individual(s). The RIO is responsible for implementing any steps the Deciding Official approves. The RIO will also take appropriate steps during the inquiry and investigation to prevent any retaliation against the Complainant or others.

D. Allegations and Actions Not Made in Good Faith

If relevant, the Deciding Official will determine whether the Complainant's allegations of misconduct were made in good faith, or whether a Witness or committee member acted in good faith. If the Deciding Official determines that a Complainant, Witness, or committee member did not act in good faith, he/she will determine whether any administrative action should be taken against that person.

E. Interim Administrative Actions

LSSU officials will take interim administrative actions, as appropriate, to protect public health, safety, the environment, Federal or other funds, and to ensure that the purposes of any financial assistance are carried out.

XIII. Record Retention

After completion of a case and all ensuing related actions, the RIO will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the RIO or committees. The RIO will keep the file for seven (7) years after completion of the case to permit later assessment of the case. The funding agency, if any, will be given access to the records upon request.