



Procedure for the Disposition of Allegations of Research Misconduct

[This document contains substantial word-for-word excerpts of materials from sources cited in Section VII on References]

The processes and procedure set forth in this document will be used in the implementation of the *CSUB Policy on the Disposition of Allegations of Research Misconduct* (hereinafter, University Policy). This policy prescribes a three-phase procedure for disposing of reports of research misconduct: Allegation, Inquiry, and Investigation. The following are the details of each phase using terms and definitions specified in University Policy.

I. Allegation of Research Misconduct

- A. Members of the California State University, Bakersfield (CSUB) community who observe, suspect or otherwise become aware of a research misconduct, as defined by University Policy, have a responsibility to report an Allegation of Research Misconduct to the Research Integrity Officer (RIO). Persons external to the University should also report to the RIO any allegation of research misconduct involving persons employed by or affiliated with CSUB. An Allegation of Research Misconduct may be made to the RIO by telephone, other electronic means, in writing (hard-copy), or in-person meeting. If an Allegation is reported to the RIO orally, the RIO will contemporaneously create a written record of the Allegation.
- B. If a University faculty or staff member, post-doctoral associate, or student becomes the subject of an Investigation of any kind conducted by a regulatory agency or research sponsor concerning an Allegation of Research Misconduct, such individual must report the existence of the Investigation immediately in writing to the Dean of his or her School. Upon receiving such notification, the Dean will give notice of the pending Investigation to the Provost and the RIO and, if the pending Investigation involves sponsored research, the Associate Vice President for Grants, Research and Sponsored Programs. This notice to the RIO will serve as a report of an Allegation of Research Misconduct. The RIO will review the notice to determine the nature of the Allegation and to initiate Research Misconduct Proceedings, as appropriate. Failure to disclose a pending Investigation pursuant to this section may subject the University faculty or staff member, post-doctoral associate, or student to disciplinary or other appropriate action.
- C. Upon receipt of an Allegation, the RIO will first determine, pursuant to the provisions of University Policy, whether it is made against a person to whom University Policy applies, whether the Allegation should be handled under this Procedure, including a determination of whether PHS or other federal or non-federal funding is involved,

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whether it falls within the six-year limitations period, and, if so, whether any agency-specific regulations are applicable.

- D. If it is appropriate to handle the Allegation under this Procedure, the RIO will determine whether a sufficient basis exists to commence an inquiry. In general, an allegation will provide a sufficient basis to commence an inquiry if:
- (1) the Allegation falls under the definition of research misconduct; and
 - (2) the Allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.
- E. If, on its face, the Allegation is not deemed a sufficient basis to commence an inquiry, the RIO, will either:
- (1) determine that no inquiry is warranted and proceed under Section I.I below; or
 - (2) if there is reason to believe that additional relevant information may provide a sufficient basis to commence an inquiry, take appropriate steps to attempt to obtain promptly a more complete statement of the Allegation and the basis for it and, if appropriate, attempt to obtain relevant information from the individual accused of misconduct. In so doing, the RIO will make reasonable efforts to protect the privacy of those who in good faith report alleged misconduct, to afford confidential treatment to the accused, and to avoid unwarranted publicity regarding unverified allegations.
- F. If the RIO determines that there is sufficient basis to commence an inquiry, then the RIO will
- (1) determine whether emergency, interim, or other appropriate institutional notifications or actions need to be taken;
 - (2) will give notice of the Allegation to the Provost and to the Associate Vice President for Grants, Research, and Sponsored Programs and, if the Allegation involves auxiliary-managed sponsored research, the Chair of the Board of the CSUB Auxiliary for Sponsored Programs Administration. The RIO, in collaboration with the University Research Ethics Review Coordinator, will notify the Respondent of the Allegation, provide a summary of the nature of the Allegation, and affirm the University's intent to initiate an Inquiry.
 - (3) immediately take reasonable and practical steps to obtain custody of relevant Research Records and Evidence relating to the Allegation that are needed to conduct all phases of the Research Misconduct Proceedings, inventory the records and evidence, and sequester them in a secure manner. When appropriate, the University will give the Respondent copies of, or reasonable supervised access to the Research Records. If, during the course of the proceeding, it is discovered that additional research records or evidence should be taken into custody, the RIO will continue to take such steps to obtain and maintain custody of such records.
- G. The Respondent may be suspended or removed from work under a research grant or contract by the Provost, in consultation with the Associate Vice President for Grants, Research, and Sponsored Programs, any time following the commencement of an Inquiry regarding an Allegation of Research Misconduct about such research if, in

the judgment of the Provost, such suspension or removal is warranted by the circumstances. Depending on developments in the Inquiry or Investigation, the Provost may, in consultation with the Associate Vice President for Grants, Research, and Sponsored Programs, restore the Respondent to the work under the research grant or contract. The Associate Vice President for Grants, Research, and Sponsored Programs or his or her designee will notify any applicable regulatory agency and/or research sponsor of any suspension, removal, or restoration decision under this section, and will provide copies of the notice and any follow-up communications with regulatory agencies and/or research sponsors to the Chair of the Board of the CSUB Auxiliary for Sponsored Programs Administration.

- H. If the Respondent admits the accuracy of an Allegation of Research Misconduct before or during the course of an Inquiry or Investigation, the matter will be directly forwarded to the Provost for appropriate action, which may include disciplinary action under applicable collective bargaining agreements, the University Handbook, or other applicable policies of the University.
- I. If the RIO, in consultation with the Provost, determines that no inquiry is warranted, a written summary of the reasons for such determination will be prepared and kept on file in the RIO's office. This summary will then be available in the event of any future authorized inquiries concerning the research or researchers or concerning the reasons for dismissing the allegations. A copy of this summary shall be provided to the Respondent.
- J. The RIO will inform the Complainant of the decision as to whether or not an inquiry will commence.
- K. In general, the RIO should notify and consult with the Legal Affairs Designee prior to deciding whether to commence an inquiry.

II. Inquiry of Alleged Research Misconduct

A. Inquiry Committee

1. If the RIO has determined that an inquiry will be conducted, the Provost will appoint an Inquiry Committee.
2. The Inquiry Committee will consist of two or more members of the faculty, together with such technical, administrative, or other staff as may be deemed appropriate. The Provost should generally designate a member to serve as chair of the Committee. In selecting members of the Committee, the Provost will seek to ensure that the Committee has available to it the necessary and appropriate expertise in relevant disciplines and has an appropriate understanding of the process and procedures that must be followed. The Provost, in consultation with the Committee, may add or replace members of the Committee as needed to ensure the timely completion of the Inquiry and the Committee's competence to review the allegations. However, no staff member of the Respondent's School may serve on the Investigation Committee. The RIO will be responsible for making available to the Committee appropriate administrative and

clerical assistance to facilitate a prompt and thorough inquiry and the preparation of an appropriate report.

3. Individuals selected to serve on the Inquiry Committee or to provide professional assistance to the Committee will be expected to disclose to the Provost any factors, including but not limited to unresolved personal, professional, or financial conflicts of interest, which would prevent them from serving fairly, objectively, and without bias, or which reasonably would give the appearance of a lack of fairness, lack of objectivity, or the presence of bias. Every member of the Committee must complete and submit to the RIO a conflict of interest disclosure form attesting to the satisfaction of this requirement before commencing work on the Committee. All persons who participate in the Inquiry as committee members, administrative or clerical staff, witnesses, or in any other capacity shall maintain the confidentiality of the inquiry and of all information obtained in the course of the inquiry, except as may be necessary in conjunction with the conduct of the inquiry, including subsequent related reports or proceedings, and reports to the President and his/her Cabinet.

B. Committee Charge

1. The RIO will prepare a charge for the Inquiry Committee that:

- (a) describes the Allegation and any related issues identified during the allegation assessment;
- (b) expressly states that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the Respondent, Complainant and key witnesses, to determine whether an investigation is warranted, not to determine whether research misconduct definitely occurred or who was responsible;
- (c) states that an investigation is warranted if the Committee determines that there is a reasonable basis for concluding that the Allegation falls within the definition of Research Misconduct and the Allegation may have substance, based on the Committee's review during the Inquiry;
- (d) informs the Committee that it is responsible for preparing or directing the preparation of a written report of the Inquiry that meets the requirements of University Policy and any applicable federal regulations; and
- (e) sets the time for completion of the inquiry.

A copy of the charge will be provided to the Respondent.

2. If during the course of the inquiry, the Committee determines that the scope of the inquiry should be expanded beyond that covered by the initial charge, the Committee will so notify the RIO and, with the approval of the RIO, will give appropriate notice to the Respondent of the expansion of the Inquiry. The RIO and/or Provost may meet with the Committee at any time to review the progress of the Inquiry and to assist its focus. The Inquiry Committee may direct that additional research documents or materials be sequestered with the assistance of the RIO.

C. Inquiry Process and Report

1. The Inquiry Committee will normally interview the Complainant, the Respondent, and key witnesses, and will examine relevant research records and materials. The Committee should keep general minutes of its meetings and should, as a general rule, prepare written summaries of testimony from witnesses. The Inquiry Committee will then evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the Committee members will decide whether an investigation is warranted based on the criteria in University Policy and, if appropriate, any applicable regulations. The scope of the inquiry is not required to and does not normally include deciding whether misconduct definitely occurred or conducting exhaustive interviews and analyses.
2. The Inquiry Committee will prepare a written report for submission to the RIO, that includes: (a) the name and position of the Respondent; (b) a description of the Allegations of Research Misconduct; (c) the source of funding for the research, including, for example, grant numbers, grant applications, contracts and publications listing such support; (d) a description of the general procedures under which the inquiry was conducted, including reference to these procedures as well as any federal regulations governing the conduct of the inquiry; (e) a statement of the relevant evidence assembled and preliminarily reviewed by the Committee; and (f) a statement of the conclusion of the Committee as to whether the Allegation appears to have substance and the information supporting that conclusion. The Inquiry Report should be written in a form which, if accepted, may serve as an appropriate institutional statement of reasons for further institutional action, including the commencement of an investigation or the dismissal of the Allegation. The Committee shall submit this Report no later than 40 days from the commencement of the Inquiry. The RIO will review and submit the Report to the Provost within 7 days of receiving the Report from the Committee.
3. The Inquiry, including preparation of the final Inquiry Report and the decision of the Provost on whether an investigation is warranted, should generally be completed within 60 calendar days of initiation of the Inquiry, unless the Committee requests and the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the record of the Inquiry should include documentation of the reasons for exceeding the 60-day period.
4. The RIO shall notify the Respondent in writing whether the Inquiry found an investigation to be warranted, and will provide the Respondent with a copy of the draft Inquiry Report. The Respondent will be asked to provide any comments on the draft report to the RIO and committee chair within seven (7) calendar days. The RIO will determine, on a case-by-case basis, whether the report or relevant portions thereof should also be provided to the Complainant for comment within seven (7) days. The Committee will decide whether, in view of any comments received, any revisions to the report are warranted and will then provide the final report to the RIO.

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5. The RIO will provide the final report as well as any comments submitted by the Respondent to the Provost. The Provost, in consultation with the RIO, will decide whether to accept, reject, or modify the report of the Committee and will determine in writing whether an investigation is warranted. The Provost will provide written notification of his or her final decision to the Respondent and the Complainant.

6. If applicable, within thirty (30) calendar days of the Provost's decision that an investigation is warranted, the Associate Vice President for Grants, Research, and Sponsored Programs will provide the Chair of the Board of the CSUB Auxiliary for Sponsored Programs Administration, and the appropriate research sponsor, with the Provost's written decision and a copy of the Inquiry Report. For PHS funded projects, the RIO shall notify the Director of the Office of Research Integrity at the agency, on or before the date the Investigation begins, and will provide a copy of the Inquiry Report along with the notification.

7. If the Provost decides that an investigation is not warranted, the RIO shall secure and maintain for seven (7) years after the termination of the Inquiry sufficiently detailed documentation of the Inquiry to permit a later assessment by the appropriate research sponsor of the reasons why an investigation was not conducted. These documents must be provided to a federal agency upon request.

III. Investigation of Research Misconduct

A. Investigation Committee

1. Upon receipt of the final Inquiry Report, the Provost in consultation with the RIO will appoint an investigation committee. The function of the Committee will be to conduct an investigation of the Allegations and to prepare and submit a report to the Provost containing the Committee's determination as to whether misconduct has occurred.

2. The Investigation Committee will consist of three or more members of the faculty together with such technical, administrative, or other staff as may be deemed appropriate. Faculty members, or other individuals who do not hold appointment or employment at the University, may be selected to serve. With the consent of the Respondent, individuals may be appointed to the Investigation Committee who previously served on the Inquiry Committee. The Provost should generally designate a member to serve as chair of the Committee. In selecting members of the Committee, the Provost will seek to ensure that the Committee as a whole has the necessary and appropriate expertise in relevant disciplines as well as an appropriate understanding of the process and procedures that must be followed. The Provost, in consultation with the Committee, may add or replace members of the Committee as needed to ensure the timely completion of the investigation and the Committee's competence to review the allegations. However, no staff member of the Respondent's School may serve on the Investigation Committee. The RIO will be responsible for making available to the Committee