

Policy RA-PO1

Misconduct in Research and/or Scholarship

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I. Introduction

A. General Policy

The University of Texas at Arlington (UT Arlington) has developed these policies and procedures for responding to allegations of misconduct in research and scholarship based on the U.S. Public Health Services (PHS) Model of Procedures for Responding to Allegations of Scientific Misconduct, 42 C. F. R., [Part 50 and Part 93](#), Subpart A and Federal Policy on Research Misconduct issued by the Federal Office of Science and Technology Policy, effective May 17, 2005.

The University of Texas at Arlington strives to create a research climate that promotes faithful adherence to high ethical standards in the conduct of research and scholarship without inhibiting the productivity and creativity of persons involved in research and/or scholarship. Misconduct or fraud in research or scholarship is an offense that damages not only the reputation of those involved but also that of the entire educational community.

Scholarship activities that involve faculty/student collaboration are encouraged and may be positively recognized in faculty personnel processes. Issues related to faculty/student collaboration may include matters such as expected contributions of each party, order of authorship, and/or type of citation to be given, and must be addressed early in any scholarly project. Decisions must be congruent with the ethics and scholarly customs of each discipline involved. Specific recognition of the

nature and scope of individual student contributions must be made in all published materials.

B. Scope

This policy and the associated procedures apply to all UT Arlington employees and any person paid by, under the control of, or affiliated with UT Arlington, such as scientists, trainees, technicians and other staff members, student employees, fellows who receive scholarships funded by grants, guest researchers, or collaborators, engaged in research or scholarship. It also applies to any research, research-training or research-related grant, contract, cooperative agreement or other sponsored project and all scholarship activities.

The policy and associated procedures will be followed when an institutional official receives an allegation of possible misconduct in research or scholarship. Particular circumstances in an individual case may dictate variation from the normal procedure deemed in the best interests of UT Arlington. Any change from normal procedures also must ensure fair treatment to the subject of the inquiry or investigation. The Provost must approve in advance any significant deviation from these policies and procedures.

This policy does not apply to UT Arlington undergraduate students who are accused of scholastic dishonesty. Such students will be subject to the Board of Regents of The University of Texas System Regents' [Rules and Regulations](#), Rule 50101, and institutional procedures regarding allegations of academic dishonesty as outlined in UT Arlington Handbook of Operating Procedures, Student Policies, Chapter 2, Student Conduct and Discipline.

II. Definitions

Allegation means any written or oral statement or other indication of possible research or scholarship misconduct made to an institutional official.

Conflict of Interest means the real or apparent interference of one person's interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships.

Deciding Official (DO) means the institutional official who makes final determinations on allegations of misconduct and any responsive institutional actions. At UT Arlington this person is the President or his/her designee.

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.

Good Faith Allegation means an allegation made with the honest belief that 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 research and/or scholarship misconduct warrants an investigation.

Inquiry Panel is a panel appointed by the Responsible University Officer to determine whether an allegation or apparent instance of research and/or scholarship misconduct warrants an investigation.

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.

Investigation Panel is a panel of faculty and administrators with sufficient expertise to conduct the investigation. This panel will move into the investigation stage. Investigation processes will be followed.

Misconduct in Research or Scholarship includes misconduct and means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the academic community for proposing, conducting, or reporting research and scholarship. It also includes copyright and patent infringement and authorship credit. It does not include honest error or honest differences in interpretations or judgments of data. Research misconduct does not include honest error or differences of opinion.

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.

Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

Research includes all basic, applied, and demonstration research in all fields of science, engineering, and mathematics. This includes, but is not limited to, research in economics, education, linguistics, medicine, psychology, social sciences, statistics, and research involving human subjects or animals.

Research/Scholarship Integrity Officer (RSIO) means the University Official responsible for working with the Inquiry or Investigation Chair and Panel Members. He/she shall be a member of each Inquiry or Investigation Panel. The Assistant Vice President for Research/Director, Office of Research, shall serve as the RSIO.

Research or Scholarship Record means any data, document, computer file, computer diskette, 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 or scholarship that constitutes the subject of an allegation of misconduct in research or scholarship. A research or scholarship record includes, but is not limited to, grant or contract applications, whether funded or non-funded; grant or contract progress and other reports; laboratory notebooks; documents; publications; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and 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.

Respondent means the person against whom an allegation of misconduct in research or scholarship 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.

The Responsible University Official (RUO) means the University official responsible for assessing allegations of misconduct in research or scholarship and determining when such allegations warrant inquiries and for overseeing inquiries and investigations. He/she shall appoint members to serve on the Inquiry Panel or Investigation Panel. The Vice President for Research shall serve as the Responsible University Official.

Retaliation means any action that adversely affects the employment or other institutional status of an individual that is taken by an institution or an employee because the individual has in good faith made an allegation of misconduct or of inadequate institutional response thereto or has cooperated in good faith with an investigation of such allegation.

Whistleblower means a person who makes an allegation of misconduct in research or scholarship.

III. **Rights and Responsibilities**

A. Responsible University Official (RUO)

The Responsible University Official will receive any written comments made by the Whistleblower and all draft and final reports issued by the Inquiry or Investigation Panels. The RUO will consult with the UT Arlington President and Provost to determine whether to initially convene an Inquiry Panel or Investigation Panel. After receiving the report of an Inquiry Panel, the RUO will decide if an Investigation Panel should be appointed.

The RUO shall appoint members to serve on an Inquiry or Investigation Panel. The RUO will be the Vice President for Research.

B. Deciding Official (DO)

The Deciding Official will make the final determination on allegations of misconduct in research or scholarship. The Deciding Official will determine whether or not to impose sanctions or whether to take other appropriate administrative actions. The Deciding Official for UT Arlington is the President or his/her designee.

C. Research/Scholarship Integrity Officer (RSIO)

The Assistant Vice President for Research/Director, Office of Research, will serve as the Research/Scholarship Integrity Officer who will have primary responsibility for implementation of the procedures set forth in this document. The RSIO is an institutional official who is well qualified to handle the procedural requirements involved and is sensitive to the varied demands made on those who conduct research, those who engage in scholarship, those who are accused of misconduct, and those who report apparent misconduct in good faith.

The RSIO will work with the RUO in appointing the Inquiry and/or Investigation Panels and ensuring that necessary and appropriate expertise is secured to carry out a thorough and authoritative evaluation of the relevant evidence in an inquiry or investigation. The RSIO will attempt to ensure that confidentiality is maintained.

The RSIO will assist the Inquiry and Investigation Panels and all institutional personnel in complying with these procedures and with applicable standards imposed by UT Arlington, the government or external funding sources. The RSIO is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files. The RSIO will report to the RUO the status of an inquiry or investigation. He/she will also report, if applicable, to ORI or other Federal agencies, as appropriate, and in accordance with applicable Federal regulations and keep ORI or other Federal agencies, if applicable, apprised of any developments during the course of the inquiry or investigation that may affect current or potential funding or other Federal funding for the individual(s) under investigation or that is needed to know to ensure appropriate use of Federal funds and otherwise protect the public interest.

D. Whistleblower

The Whistleblower will have an opportunity to testify before the Inquiry and/or Investigation Panel, to review portions of the inquiry and/or investigation 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 RSIO has determined that the Whistleblower may be able to provide pertinent information on any portions of the draft report, these portions will be given to the Whistleblower for comment.

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

E. Respondent

The respondent will be informed of the allegations when an inquiry or investigation 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/or Investigation Panels, to review the draft inquiry and investigation reports, and to 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 guilty of misconduct in research or scholarship, he or she has the right to receive institutional assistance in restoring his or her reputation.

IV. **General Policies and Principles**

A. Responsibility to Report Misconduct in Research or Scholarship

All employees or individuals associated with UT Arlington should report observed, suspected, or apparent misconduct in research or scholarship to their appropriate Department Chair, Unit Head or Dean, or if such allegations involve a Department Chair or Dean, they should be brought to the attention of the President, Provost or RUO, in accordance with this policy.

If an individual is unsure whether a suspected incident falls within the definition of misconduct in research or scholarship, he/she may call the RUO to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of misconduct in research or scholarship, the RUO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem. At any time, an employee may have discussions and consultations about concerns of possible misconduct with a Department Chair, Unit Head, Dean, Provost, Vice President for Academic Affairs, RUO, or the RSIO and will be counseled about appropriate procedures for reporting allegations. All University Officials are under a duty to report alleged misconduct to the RUO and to maintain confidentiality.

B. Protecting the Whistleblower

Individuals who bring allegations of misconduct or of inadequate institutional response thereto, and those who cooperate in inquiries or investigations will not be retaliated against in the terms and conditions of their employment or other status at the institution. The RUO will review instances of alleged retaliation for appropriate action. Employees should immediately report any alleged or apparent retaliation to the RUO.

UT Arlington will protect the privacy of those who report misconduct in good faith to the maximum extent possible. For example, if the Whistleblower requests anonymity, UT Arlington 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 Whistleblower will be advised that if the matter is referred to an Inquiry or Investigation Panel and the Whistleblower's testimony is required, anonymity may no longer be guaranteed. UT Arlington will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

If a Whistleblower chooses to bring legal counsel to an interview or meeting on the case, he/she must provide the RSIO with a minimum of five working days notice so that UT Arlington's counsel may also be present. Legal counsel may not examine witnesses or otherwise interfere with the inquiry or investigation's fact-finding process.

C. 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 or thoroughly carrying out the inquiry or investigation.

A UT Arlington employee accused of misconduct in research or scholarship may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the counsel or personal adviser to interviews or meetings on the case. Legal counsel may not examine witnesses or otherwise interfere with the inquiry or investigation's fact-finding process. If a Respondent chooses to bring legal counsel or personal adviser to an interview or meeting with the Inquiry or Investigation Panel, he/she must provide the RSIO with a minimum of five working days notice so that UT Arlington's counsel may be present.

D. Cooperation with Inquiries and Investigations

UT Arlington faculty, staff and students will cooperate with the RSIO and other institutional officials in the review of allegations and the conduct of inquiries and investigations. UT Arlington faculty, staff and students have an obligation to provide relevant evidence including documents and other information pertaining to the research or scholarship record relating to the misconduct allegations to the RSIO, Inquiry and Investigation Panels or other institutional officials.

E. Preliminary Assessment of Allegations

Upon receiving an allegation of misconduct in research or scholarship, the RUO will immediately assess the allegation and working with the Deciding Official and the RSIO determine whether there is sufficient evidence to warrant an inquiry or investigation and whether Federal support or applications for funding is involved, and whether the allegation falls under the definition of misconduct in research and scholarship.

V. Conducting the Inquiry

A. Initiation of the Inquiry Process

Following the preliminary assessment, if the RUO determines that the allegation provides sufficient information to allow specific follow-up or involves Federal support, and falls under the definition of misconduct in research or scholarship, he/she will immediately initiate the inquiry process. In initiating the inquiry, the RUO should identify clearly, if possible, the original allegation and any related issues that should be evaluated. The inquiry must be completed within 60 calendar days unless circumstances clearly warrant a longer period, in which case the inquiry record must include documentation of the reasons for exceeding the 60 day period.

B. Purpose of the Inquiry Process

The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the Respondent, Whistleblower, 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 Inquiry Panel will proceed under Section 5-805-F, Inquiry Process, in this document. The findings of the inquiry must be set forth in an inquiry report.

The RUO may bypass the inquiry stage and form an Investigation Panel. In doing so, the Investigation Panel will proceed to Section 5-807, Conducting the Investigation, in this document.

If additional information becomes available that substantially changes the subject matter of the inquiry or investigation or would suggest additional respondents, the Inquiry or Investigation Panel will notify the RUO, who will determine whether it is necessary to notify the Respondent of the new subject matter or to provide notice to additional respondents.

C. Sequestration of the Research Records

After determining that an allegation falls within the definition of misconduct in research or scholarship, the RUO will notify the RSIO who must ensure that all original research and scholarship records and materials relevant to the allegation are immediately secured, if appropriate. The RUO, after consultation with the Provost, shall make this determination. However, in the case of accusations involving Federal funding, records will be sequestered in accordance with Federal agency policies and procedures.

D. Appointment of the Inquiry Panel

The RUO in consultation with other institutional officials as appropriate, will appoint an Inquiry Panel and panel chair within fifteen (15) working days of the initiation of the inquiry. The Inquiry Panel 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(s), interview the principals and key witnesses, and conduct the inquiry. These individuals may be scientists, subject matter experts, administrators, lawyers, or other qualified persons, and they may be from inside or outside the institution. The RSIO shall be a member of every Inquiry Panel.

The RSIO will notify the Respondent of the allegations against him/her and the composition of panel membership at least seven (7) working days before interviewing begins. Notification will be sent via certified mail and regular first class mail. The Respondent may submit within five (5) working days of transmittal of notification a written objection to the RUO on bias or conflict of interest. The RSIO will determine whether to replace the challenged member or expert with a qualified substitute.

E. Charge to the Inquiry Panel and the First Meeting

The RUO will prepare a charge for the Inquiry Panel that describes the allegations and any related issues identified during the allegation assessment and states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the Respondent, Whistleblower, 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 definitely occurred or who was responsible.

At the panel's first meeting, the RSIO will review the charge with the panel, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the panel with organizing plans for the inquiry, and answer any questions raised by the panel.

F. Inquiry Process

The Inquiry Panel will normally interview the Whistleblower, the Respondent, and key witnesses as well as examining relevant research and/or scholarship records and related materials. These interviews will be tape recorded and transcribed. The Inquiry Panel will then evaluate the evidence and testimony obtained during the inquiry. After consultation with the RUO, the panel members will decide whether there is sufficient evidence of possible misconduct to recommend an investigation. The scope of the inquiry does not include deciding whether misconduct occurred or conducting exhaustive interviews and analyses.

VI. **The Inquiry Report**

A. Elements of the Inquiry Report

A written inquiry report must be prepared that states the name and title of the panel members and experts, if any; the allegations; a description of Federal support (if applicable); a summary of the inquiry process used; 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 panel's determination as to whether an investigation is recommended and whether any other actions should be taken if an investigation is not recommended. This report shall be prepared by the Inquiry Panel Chair and submitted by the Inquiry Panel Chair to the RUO.

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

The RUO will provide the Respondent with a copy of the draft inquiry report for comment and rebuttal and will provide the Whistleblower, if he/she is identifiable, with portions or a summary of the draft inquiry report that addresses the Whistleblower's role and opinions in the investigation. Notification for comments will be sent via certified mail and regular first class mail.

C. Confidentiality

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

D. Receipt of Comments

Within ten (10) working days of receipt of the draft report, the Respondent and Whistleblower (if applicable) will provide their comments, if any, to the RUO. Any comments that the Respondent or Whistleblower submits on the draft report will become part of the final inquiry report and record. Based on the comments, the Inquiry Panel may revise the report as appropriate.

E. Final Report, Inquiry Decision and Notification

The Chair of the Inquiry Panel will transmit to the RUO the final report. The RUO will transmit the final report and any comments to the Deciding Official, who will make the determination of whether findings from the inquiry provide sufficient evidence of possible misconduct to justify conducting an investigation. The inquiry is formally completed when the Deciding Official makes this determination, which should be made within thirty (30) working days of the Deciding Official's receipt of the report from the RUO. Any extension of this period will be based on good cause and recorded in the inquiry file.

The RUO will notify both the Respondent and the Whistleblower in writing of the Deciding Official's decision of whether to proceed to an investigation and will remind them of their obligation to cooperate in the event an investigation is opened. The RUO will also notify all appropriate institutional officials of the Deciding Official's decision.

F. Time Limit for Completing the Inquiry Report

The Inquiry Panel will normally complete the inquiry and submit its report in writing to the RUO no more than sixty (60) calendar days following the initiation of the Inquiry Panel, unless the RUO approves an extension for good cause. If the RUO 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.

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 potential harm to human subjects or the general public or if it affects research or scholarship that forms the basis for

public policy, clinical practice, or public health practice. The findings of the investigation will be set forth in a report. A finding of misconduct in research or scholarship requires that:

there be a significant departure from accepted practices of the relevant research community; and

the misconduct be committed intentionally, or knowingly, or recklessly; and

the allegation be proven by a preponderance of evidence.

B. Sequestration of the Research Records

The RSIO will immediately sequester any pertinent research records or additional pertinent research records that were not previously sequestered during the inquiry. This sequestration should occur before or at the time the Respondent is notified that an investigation has begun. 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.

C. Appointment of the Investigation Panel

The RUO, in consultation with other institutional officials as appropriate, will appoint an Investigation Panel and the panel chair. The Investigation Panel will be appointed and will meet within thirty (30) days of the completion of the Inquiry. The Investigation Panel should consist of at least three 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 allegations, interview the principals and key witnesses, and conduct the investigation. These individuals may be scientists, administrators, subject matter experts, lawyers, or other qualified persons, and they may be from inside or outside the institution. Individuals appointed to the Investigation Panel may also have served on the Inquiry Panel. The RSIO will serve as a member of every Inquiry and Investigation Panel.

The RUO will notify the Respondent of the allegations against him/her and the proposed panel membership at least seven (7) working days before interviewing begins. Notification will be sent via certified mail and regular first class mail. The Respondent may submit to the RUO within five (5) working days of transmittal of notification, a written objection to panel appointees on the basis of bias or conflict of interest. The RUO will determine whether to replace the challenged panel member with a qualified substitute.

D. Charge to the Panel and the First Meeting

The RUO will define the subject matter of the investigation in a written charge to the panel that describes the allegations and related issues identified during the inquiry, defines the misconduct the Respondent is alleged to have violated, and identifies the name of the Respondent. The charge will state that the panel is to evaluate the evidence and testimony of the Respondent, Whistleblower, and key witnesses to determine whether, based on a preponderance of the evidence, research or scholarship misconduct occurred and, if so, to what extent, who was responsible, and its seriousness. The charge of the Investigation Panel will also be to recommend, if the Respondent(s) is found to have committed misconduct in research or scholarship, a course of institutional administrative action the University should follow.

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

The RSIO will convene the first meeting of the Investigation Panel 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 Panel will be provided with a copy of this policy and procedures and, where Federal funding is involved, the Federal regulation. All meetings following the first panel meeting will be convened by the chair of the Investigation Panel. For purposes of confidentiality all meetings of the Investigation Panel will take place at the location of the Office of Research.

E. Investigation Process

The Investigation will normally involve examination of all documentation including, but not necessarily limited to, relevant research records, computer files, proposals, manuscripts, publications, correspondence, memoranda, and notes of telephone calls. Whenever possible, the panel should interview the Whistleblower(s), the Respondent(s), and other individuals who might have information regarding aspects of the allegations. Interviews of the Respondent should be tape recorded and transcribed. All other interviews should be tape recorded and transcribed or summarized. Summaries or transcripts of the interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file. The Investigation Panel will evaluate the evidence and testimony of the Respondent, Whistleblower, and key witnesses to determine whether, based on a preponderance of the evidence, misconduct in research and/or scholarship has occurred and, if so, to what extent, who was responsible, and its seriousness.

F. The Investigation Report

G. Elements of the Investigation Report

The final report submitted by the Chair of the Investigation Panel to the RUO must describe the policies and procedures under which the investigation was conducted, describe how and from whom information relevant to the investigation was obtained, state the findings, explain the basis for the findings, and recommend actions to be taken by the Deciding Official. The report will include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct.

H. Comments on the Draft Report

The RUO will provide the respondent with a copy of the draft investigation report for comment and rebuttal. The Respondent will be allowed ten (10) working days to review and comment on the draft report. The Respondent's comments will be attached to the final report. The findings of the final report should take into account the Respondent's comments in addition to all the other evidence.

The RUO will provide the Whistleblower, if he/she is identifiable, with those portions of the draft investigation report that address the Whistleblower's role and opinions in the investigation. The report may be modified, as appropriate, based on the Whistleblower's comments.

The draft investigation report will be transmitted to the UT System Office of General Counsel (OGC) for a review of its legal sufficiency if the Respondent had counsel present during any part of the Investigation or if the Deciding Official requests that OGC provide a review. Comments from OGC should be incorporated into the report as appropriate.

In distributing the draft report, or portions thereof, to the Respondent and Whistleblower, the RUO 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 RUO may request the recipient to sign a confidentiality statement or to come to his/her office to review the report.

I. Transmittal of the Final Investigation Report

After comments have been received and the necessary changes have been made to the draft report, the Investigation Panel chair will prepare and transmit the final report with attachments, including the Respondent's and Whistleblower's comments, to the Deciding Official, through the RUO.

J. Acceptance of Final Report

The Deciding Official will make the final determination as to whether to accept the investigation report, its findings, and the recommended institutional administrative actions outlined but not limited to Section 5-810, Institutional Administrative Actions, in this document. If a decision is rendered that is different from that of the Investigation Panel, the

Deciding Official will explain in writing to the RUO, Respondent and Whistleblower the basis for rendering the decision. If appropriate, this writing will be transmitted along with the report to the appropriate Federal agency. The Deciding Official's explanation should be consistent with the University's definition of misconduct in research and scholarship, UT Arlington's policies and procedures, and the evidence reviewed and analyzed by the Investigation Panel. The Deciding Official may also return the report to the Investigation Panel with a request for further fact-finding or analysis. The Deciding Official's determination, together with the Investigation Panel's report, constitutes the final investigation report for purposes of review.

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

K. Time Limit for Completing the Investigation Report

An investigation should ordinarily be completed within one hundred and twenty (120) days of the first meeting of the Investigation Panel. This includes conducting the investigation, preparing the report of findings, providing the draft report to the Respondent for comment, submitting the report to the Deciding Official for approval, and submitting the report to a Federal agency, if applicable.

VIII. **Special Requirements for Reporting to the Federal Government**

A. Reporting Requirements

Federal Policy on Research Misconduct issued by the Federal Office of Science and Technology Policy, effective December 6, 2000, requires that Federal agencies and research institutions share responsibility for the research process. This Federal policy states that: "Federal agencies have ultimate oversight authority for Federally funded research, but research institutions bear primary responsibility for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of research misconduct alleged to have occurred in association with their own institution." It is in cooperation with Federal policy that UT Arlington implements the following requirements when Federal funds are involved in the misconduct inquiry or investigation.

If U. S. Public Health Service (PHS) funding is involved, UT Arlington will follow 42 CFR Part 50, Subpart A, Responsibility of PHS Awardee and Applicant Institutions for Dealing With and Reporting Possible Misconduct in Science (originally issued in 1989, and still in effect until HHS formally implements the new Federal definition and policy through revised regulations) [Federal Register: December 6, 2000 (Volume 65, Number 235)].

UT Arlington's decision to initiate an investigation must be reported in writing to the Director of ORI, on or before the date the investigation begins. At a minimum, the notification should include the name of the person(s) against whom the allegations have been made, the general nature of the allegation as it relates to the PHS definition of scientific misconduct, and the PHS applications or grant number(s) involved. ORI must also be notified of the final outcome of the investigation and must be provided with a copy of the investigation report. Any significant variations from the provisions of the institutional policies and procedures should be explained in any reports submitted to ORI. If other Federal agencies are involved, the information will be reported in accordance with the sponsoring agency printed policies and procedures. If required by a Federal agency, the RSIO shall notify a Federal agency of the results of inquiries or investigations.

B. Termination and Extension of PHS Related Inquiry or Investigation

If UT Arlington plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of the PHS regulations, the RSIO will submit a report of the planned termination to ORI, including a description of the reasons for the proposed termination.

If the institution determines that it will not be able to complete the investigation in 120 days, the RSIO will submit to ORI 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 RSIO will file periodic progress reports as requested by the ORI.

C. Working with ORI

When PHS funding or applications for funding are involved and an admission of misconduct in research is made, the RSIO will contact ORI 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 PHS funds, the institution cannot accept an admission of scientific misconduct as a basis for closing a case or not undertaking an investigation without prior approval from ORI.

The RSIO will notify ORI at any stage of the inquiry or investigation if:

there is an immediate health hazard involved;

there is an immediate need to protect Federal funds or equipment;

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;

it is probable that the alleged incident is going to be reported publicly; or

the allegation involves a public health sensitive issue., eg., a clinical trial; or

there is a reasonable indication of possible criminal violation. In this instance, the institution must inform ORI within 24 hours of obtaining that information.

IX. Institutional Administrative Actions

UT Arlington will take appropriate administrative actions against individuals when an allegation of misconduct in research or scholarship has been substantiated. Upon receipt of an investigation report, the President or his/her designee shall initiate hearing procedures to discipline or terminate the Respondent(s). The hearing procedures should be commenced pursuant to the established due process procedures of UT Arlington and the Board of Regents of The University of Texas System. The hearing procedures should begin within 30 days after the conclusion of the investigation. An attorney from the UT System Office of General Counsel will be available to represent UT Arlington in the hearing

If the Deciding Official determines that the alleged misconduct is substantiated by the findings, he/she will decide on the appropriate actions to be taken, after consultation with the RUO. The actions may include (but not limited to) the following:

withdrawal or correction of all pending or published abstracts and papers emanating from the research or scholarship where misconduct was found;

removal of the responsible person from the particular project;

letter of reprimand;

special monitoring of future work;

probation;

suspension;

salary reduction;

initiation of steps leading to possible rank reduction;

termination of employment; and/or

restitution of funds as appropriate.

A. Other Considerations

B. Termination of Institutional Employment or Resignation Prior to Completing Inquiry or Investigation

The termination of the Respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible misconduct in research or scholarship has been reported, will not preclude or terminate the misconduct procedures.

If the Respondent, without admitting to the misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after an allegation has been reported, or during an inquiry or investigation, the inquiry or investigation will proceed. If the Respondent refuses to participate in the process after resignation, the panel will use its best efforts to reach a conclusion concerning the allegations, noting in its report the Respondent's failure to cooperate and its effect on the panel's review of all the evidence.

C. Restoration of the Respondent's Reputation

If UT Arlington finds no misconduct has occurred, the RUO will undertake, after consulting with the Respondent, reasonable efforts to restore the Respondent's reputation. If the case involves PHS funding, ORI must concur with UT Arlington that no misconduct has occurred before reasonable efforts to restore the Respondent's reputation can take place. Depending on the particular circumstances, the RUO may notify those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of misconduct was previously publicized, or removing all reference to the misconduct allegation from the Respondent's personnel file. Any institutional actions to restore the Respondent's reputation must first be approved by the Deciding Official.

D. Protection of the Whistleblower and Others

The RUO will undertake reasonable efforts to protect Whistleblowers who made allegations 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, after consulting with the Whistleblower, what steps, if any, are needed to restore the position or reputation of the Whistleblower. The RUO is responsible for implementing any steps the Deciding Official approves. The RUO will also take appropriate steps during the inquiry and/or investigation to prevent any retaliation against the Whistleblower.

E. Allegations Not Made in Good Faith

If relevant, the Deciding Official will determine whether the Whistleblower's allegations of misconduct in research or scholarship were made in good faith. If an allegation was not made in good faith, the Deciding Official will determine whether any institutional administrative action should be taken against the Whistleblower.

X. **Record Retention**

After completion of a case and all ensuing related actions, the RSIO will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the RSIO or panels. The RSIO will keep the file in accordance with the UT Arlington Handbook of Operating Procedures, Administrative Policies, Chapter 5, General Policies, Subchapter 5-700, Records Management and Retention, and in accordance with the Office of Management and Budget (OMB) Circular A-21. If the case involves ORI, ORI or other authorized personnel will be given access to the records upon request, if authorized by the Deciding Official.