Research Misconduct Policy

Keene State College Policies and Procedures

Statement of Policy and Procedures for Responding to Allegations of Research Misconduct

Section Menu

I. Introduction

A. General Policy

Misconduct in research runs contrary to Keene State College’s mission as an institution of higher education, undermines the public trust placed in the research enterprise of our nation’s colleges and universities, and wastes valuable public and private resources. Therefore, it is the policy of Keene State College to neither condone nor tolerate research misconduct by any member of its community.

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, as well the corresponding policies on research misconduct of a variety of federal funding agencies.

This document applies to allegations of **research misconduct (fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results-see Section II.)** involving a person who, at the time of the alleged research misconduct, was employed by, was an agent of, was under the authority of, or was affiliated by contract

or agreement with this institution. As such, the document is applicable to all members of the College community, including, but not limited to, faculty, staff, and graduate and undergraduate students.

This document does not distinguish between funded and unfunded research activities, except where it refers to specific agency requirements. This document does not distinguish between scholarly disciplines. It is acknowledged, at the very least, that research may take on a different character from discipline to discipline. However, each discipline has its professional standards of conduct, and to the extent that fabrication, falsification, or plagiarism are rejected by those professional standards, this document applies to the research activities of those disciplines.

Research Misconduct (as defined in this document) is a specific instance of impropriety within the broader domain of personal and professional conduct. Allegations of misconduct outside the scope of this policy should be directed to the cognizant chair, dean, director, vice president, or other College official.

This statement of policy and procedures does not apply to authorship or collaboration disputes.

II. Definitions

Advocacy means the presence of an individual or individuals (“advocate(s)”) to provide support and consultation to the respondent throughout the misconduct proceedings. Advocates may include individuals such as legal counselors or personal advisors whom the respondent selects to serve in this role, and who may accompany them to meetings throughout the proceedings. Advocates will not be active participants in the process but may request a recess/opportunity to caucus during the formal proceedings in order to provide advocacy and counsel as needed. Individuals may select a collective bargaining unit representative as an advocate on their behalf, if they so wish.

Agency means a public or private agency or organization providing funds to support research.

Allegation means a disclosure of possible research misconduct through any means of communication. The disclosure may be by written or oral statement

or other communication to an institutional official.

Assessment means the process of evaluating an allegation of research misconduct in order to determine whether the allegation *falls within the definition of research misconduct, and is sufficiently credible and specific so that potential evidence of research misconduct may be identified.* This initial step is conducted by the RIO in order to determine if an inquiry is required. An inquiry must be conducted if the above stated criteria are met. If this is the case, the RIO will launch the inquiry phase, including the convening of an inquiry committee.

Complainant a person who in good faith makes an allegation of research misconduct

Deciding Official (DO) means the institutional official who makes final determinations on allegations of research misconduct and any institutional administrative actions. The Deciding Official will not be the same individual as the Research Integrity Officer and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment. A DO's appointment of an individual to assess allegations of research misconduct, or to serve on an inquiry or investigation committee, is not considered to be direct prior involvement. **The DO at Keene State College is the Provost and Vice President for Academic Affairs, or his/her designee assigned by the President.**

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 as applied to a complainant or witness means having a belief in the truth of one's allegations or testimony that a reasonable person in the complainant or witness's position could have based on the information known to the complainant or witness at the time. An allegation or cooperation with a research misconduct proceeding is not in good faith if it is made with knowing or reckless disregard for information that would negate the allegation or testimony. Good faith as applied to a committee member means cooperating with the research misconduct proceeding by carrying out the duties assigned

impartially for the purpose of helping the College meet its responsibilities. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.

Inquiry means gathering information and initial fact-finding to determine whether an allegation or suspected research misconduct warrants an investigation.

Investigation means the formal development of a factual record and the examination of that record leading to: (1) a decision not to make a finding of research misconduct, or (2) a recommendation for a finding of research misconduct which may include a recommendation for other appropriate actions, including administrative actions.

ORI means the Office of Research Integrity of the Public Health Service (PHS). Federal office promoting integrity in biomedical and behavioral research supported by the PHS by monitoring institutional investigations of scientific misconduct and facilitating the responsible conduct of research.

PHS means the Public Health Service. PHS is the umbrella organization in the U.S. Federal Government consisting of eight Health and Human Services health Agencies, the Office of Public Health and Science, and the Commissioned Corps (a uniformed service of more than 6,000 health professionals). The NIH is the largest Agency within the PHS.

Plagiarism means the appropriation of another person’s ideas, processes, results, or words without giving appropriate credit. Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Regulation means any regulation applicable to an externally funded grant or contract or to the handling of research misconduct allegations related to such grant, contract, or research performed under it.

Research Integrity Officer (RIO) means the institutional official responsible for: (1) assessing allegations of research misconduct to determine if they fall within the definition of research misconduct and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential

evidence of research misconduct may be identified; (2) overseeing inquires and investigations; and (3) the other responsibilities described in this policy. **The RIO at Keene State College is the Director of the Office of Sponsored Projects and Research (OSPR) or his/her designee assigned by the President.**

Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. It does not include honest error or differences of opinion. A finding of research misconduct requires that there be a significant departure from accepted practices of the relevant research community; that the misconduct be committed intentionally, knowingly, or recklessly; and that the allegation be proven by a preponderance of the evidence.

Research record means the record of data or results that embody the facts resulting from research inquiry, including, but not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to a government agency or an institutional official by a respondent in the course of the research misconduct proceeding.

Respondent means the person against whom an allegation of research 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.

Retaliation means an adverse action taken against a complainant, witness, or committee member by an institution or one of its members in response to a good faith allegation of research misconduct; or good faith cooperation with a research misconduct proceeding.

III. Rights and Responsibilities

A. Research Integrity Officer

The RIO at Keene State College is the Director of the Office of Sponsored Projects and Research (OSPR), or his/her designee assigned by the President. RIO responsibilities include the following duties related to research

misconduct proceedings:

- Consult confidentially with persons uncertain about whether to submit an allegation of research misconduct;
- Receive allegations of research misconduct;
- Assess each allegation of research misconduct in accordance with Section V.A. of this policy to determine whether it falls within the definition of research misconduct and warrants an inquiry;
- As necessary, take interim action and notify relevant external funding agencies of special circumstances;
- Sequester research data and evidence pertinent to the allegation of research misconduct in accordance with Section V.C. of this policy and maintain it securely in accordance with this policy and applicable law and regulation;
- Make all reasonable and practical efforts to provide confidentiality to those involved in the research misconduct proceeding, as to the extent allowed by applicable law and institutional policy;
- Notify the respondent and provide opportunities for him/her to review/ comment/respond to allegations, evidence, and committee reports in accordance with Section III.C. of this policy;
- Inform respondents, complainants, and witnesses of the procedural steps in the research misconduct proceeding;
- Appoint the chair and members of the inquiry and investigation committees, ensure that those committees are properly staffed and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;
- Determine whether each person involved in handling an allegation of research misconduct has an unresolved personal, professional, or financial conflict of interest and take appropriate action, including recusal, to ensure that no person with such conflict is involved in the research misconduct proceeding;
- In cooperation with other institutional officials, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and counter

potential or actual retaliation against them by respondents or other institutional members;

- Keep the Deciding Official and others who need to know apprised of the progress of the review of the allegation of research misconduct;
- Notify and make reports to external funding agencies as required by federal regulations or sponsor terms and conditions;
- Ensure that administrative actions taken by the institution and external funding agencies are enforced and take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, and licensing boards of those actions; and
- Maintain records of the research misconduct proceeding and make them available to external funding agencies in accordance with Section VIII.F. of this policy.

B. Complainant

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation. As a matter of good practice, the complainant **should** be interviewed at the **inquiry** stage and given the transcript or recording of the interview for correction. The complainant **must** be interviewed during an **investigation**, and be given the transcript or recording of the interview for correction.

C. Respondent

The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation. The respondent is entitled to:

- A good faith effort from the RIO to notify the respondent in writing at the time of or before beginning an inquiry;
- An opportunity to comment on the inquiry report and have his/her comments attached to the report;
- Be notified of the outcome of the inquiry, and receive a copy of the inquiry report that includes a copy of the institution’s policies and procedures on

research misconduct, as well as applicable external agency misconduct policies (in the case of externally sponsored projects);

- Be notified in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation begins (within 30 days after the institution decides to begin an investigation), and be notified in writing of any new allegations, not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;
- Be interviewed during the investigation, have the opportunity to correct the recording or transcript, and have the corrected recording or transcript included in the record of the investigation;
- Have interviewed during the investigation any witness who has been reasonably identified by the respondent as having information on relevant aspects of the investigation, have the recording or transcript provided to the witness for correction, and have the corrected recording or transcript included in the record of investigation; and
- Receive a copy of the draft investigation report and, concurrently, a copy of, or supervised access to the evidence on which the report is based, and be notified that any comments must be submitted within 30 days of the date on which the copy was received and that the comments will be considered by the institution and addressed in the final report.
- File a written appeal of the decision of the Deciding Official (DO), if he/she so chooses, within 30 days of the committee’s completion of the investigation report. All appeals are reviewed and acted upon by the President of the College.
- Have legal counsel/personal advisor or other Advocate present (at respondent’s own expense) at meetings related to the misconduct proceedings. The presence of such legal counsel/personal advisor or other Advocate will be for consultation and support; the legal counselor/personal advisor or other Advocate will not be an active participant in the process; and, shall not provide formal “representation” for the respondent. Any participant in a formal proceeding may request a recess/opportunity to caucus during the proceedings in order to allow for advocacy and counsel as needed.

The respondent should be given the opportunity to admit that research misconduct occurred and that he/she committed the research misconduct. With the advice of the RIO and/or other institutional officials, the Deciding Official may terminate the institution’s review of an allegation that has been admitted, provided the institution has received from any relevant agency any required approval of institutional acceptance of the admission and any proposed settlement.

D. Deciding Official

The DO of Keene State College is the Provost and Vice President for Academic Affairs, or his/her designee assigned by the President. The DO will receive the inquiry report and after consulting with the RIO and/or other institutional officials, decide whether an investigation is warranted. Any finding that an investigation is warranted must be made in writing by the DO and must be provided to pertinent external agencies as required by regulation, together with a copy of the inquiry report, within 30 days of the finding. If it is found that an investigation is not warranted, the DO and the RIO will ensure that detailed documentation of the inquiry is retained for at least 7 years after termination of the inquiry, so that any pertinent external agency, as required by regulation, may assess the reasons why the institution decided not to conduct an investigation.

The DO will receive the investigation report and, after consulting with the RIO and/or other institutional officials, decide the extent to which this institution accepts the findings of the investigation and, if research misconduct is found, decide what, if any, institutional administrative actions are appropriate. The DO shall ensure that the final investigation report, the findings of the DO and a description of any pending or completed administrative actions are provided to the pertinent external agencies, as required by regulation.

IV. General Policies and Principles

A. Responsibility to Report Misconduct

All institutional members have an explicit duty to report observed, suspected,

or apparent research misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the RIO to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, an institutional member may have confidential discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations.

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 make all reasonable and practical efforts to maintain confidentiality, consistent with federal regulations and institutional policy, and to: (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

As requested and as appropriate, the RIO and other institutional officials shall make all reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.

During the research misconduct proceeding, the RIO is responsible for ensuring that respondents receive all the notices and opportunities required by regulation and the policies and procedures of the institution.

Respondents may consult with their chosen Advocate (who is not a principal or witness in the case) to seek advice, and may bring the Advocate to interviews or meetings on the case. Any participant in a formal proceeding may request a recess/opportunity to caucus during the proceedings in order to recieve advocacy and counsel as needed.

F. Interim Administrative Actions and Notifying ORI or Other Pertinent Agency of Special Circumstances

Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, sponsor funds and equipment, or the integrity of externally supported research process. In the event of such a threat, the RIO will, in consultation with other institutional officials and the pertinent agency, take appropriate interim action

to protect against any such threat. Interim action might include additional monitoring of the research process and the handling of sponsor funds and equipment, reassignment of personnel or of the responsibility for the handling of sponsor funds and equipment, additional review of research data and results or delaying publication. The RIO shall, at any time during a research misconduct proceeding, notify pertinent external agencies immediately if he/she has reason to believe that any of the following conditions exist:

- Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
- Sponsor resources or interests are threatened;
- Research activities should be suspended;
- There is a reasonable indication of possible violations of civil or criminal law;
- Federal action is required to protect the interests of those involved in the research misconduct proceeding;
- The research misconduct proceeding may be made public prematurely and federal sponsor action may be necessary to safeguard evidence and protect the rights of those involved; or
- The research community or public should be informed.

V. Conducting the Assessment and Inquiry

A. Assessment of Allegations

Upon receiving an allegation of research misconduct, the RIO will immediately assess the allegation to determine whether the allegation falls within the definition of research misconduct, and is sufficiently credible and specific so that potential evidence of research misconduct may be identified. An inquiry must be conducted if these criteria are met.

The assessment period should be brief, preferably concluded within a week. In conducting the assessment, the RIO need not interview the complainant,

respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified. The RIO shall, on or before the date on which the respondent is notified of the allegation, obtain custody of, inventory, and sequester all research records and evidence needed to conduct the research misconduct proceeding, as provided in paragraph C. of this section.

B. Initiation and Purpose of the Inquiry

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 conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.

C. Notice to Respondent; Sequestration of Research Records

At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, they must be notified in writing. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. The RIO may consult with ORI or other pertinent federal agencies for advice and assistance in this regard.

D. Appointment of the Inquiry Committee

The RIO, in consultation with other institutional officials as appropriate, including the leadership of the appropriate collective bargaining unit, will appoint an inquiry committee and committee chair as soon after the initiation of the inquiry as is practical. The inquiry committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry.

The RIO shall be responsible for notifying the respondent of the proposed committee membership to give the respondent an opportunity to object to a proposed member based upon a personal, professional, or financial conflict of interest. Objections must be filed within 10 calendar days. The institution will make the final determination of whether a conflict exists.

E. Charge to the Committee and First Meeting

The RIO will prepare a charge for the inquiry committee that:

- Sets forth the time for completion of the inquiry;
- Describes the allegations and any related issues identified during the allegation assessment;
- 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;
- States that an investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct; and, (2) the allegation may have substance, based on the committee’s review during the inquiry.
- Informs the inquiry committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the

requirements of this institutional policy and any sponsor-specific requirements.

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 examining relevant research records and materials. Then the inquiry committee will 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 this policy. The scope of the inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the research misconduct or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of research misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, the institution shall promptly consult with ORI or the pertinent agency to determine the next steps that should be taken. See Section IX.

G. Time for Completion

The inquiry, including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted, must be completed within 60 calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the inquiry record must include documentation of the reasons for exceeding the 60-day period. In such instances, the respondent will be notified of the extension.

VI. The Inquiry Report

A. Elements of the Inquiry Report

A written inquiry report must be prepared that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of research misconduct; (3) the external support pertinent to the allegation, including, for example, grant numbers, grant applications, contracts and publications listing the support; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent or complainant; (6) the names and titles of the committee members and experts who conducted the inquiry; (7) a summary of the inquiry process used; (8) a list of the research records reviewed; (9) summaries of any interviews; (10) and whether any other actions should be taken if an investigation is not recommended.

Institutional counsel should review the report for legal sufficiency. Modifications should be made as appropriate in consultation with the RIO and the inquiry committee.

B. Notification to the Respondent and Opportunity to Comment

The RIO shall notify the respondent whether the inquiry found an investigation to be warranted, include a copy of the draft inquiry report for comment within 10 days, and include a copy of or refer to any pertinent agency-specific regulations and the institution’s policies and procedures on research misconduct.

Any comments that are submitted by the respondent will be attached to the final inquiry report. Based on the comments, the inquiry committee may revise the draft report as appropriate and prepare it in final form. The committee will deliver the final report to the RIO.

C. Institutional Decision and Notification

1. Decision by Deciding Official

The RIO will transmit the final inquiry report and any comments to the DO, who will determine in writing whether an investigation is warranted. The inquiry is completed when the DO makes this determination.

2. Notification to ORI or Other Pertinent Agencies and Notification to Complainant

Within 30 calendar days of the DO’s decision that an investigation is warranted, the RIO will provide ORI, or other pertinent agency as required by regulation, 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. Where PHS funding is involved, 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.

The RIO and DO shall determine what if any information to provide to the complainant at various stages in the process, balancing the complainant’s legitimate interest in the proceeding, its progress, and its outcome, with the need to safeguard the integrity and confidentiality of the process.

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, or any other pertinent agency as required by regulation, of the reasons why an investigation was not conducted.

VII. Conducting the Investigation

A. Initiation and Purpose

The investigation must begin within 30 calendar days after the determination

by the DO that an investigation is warranted. The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to recommended findings on whether research misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations. The findings of the investigation must be set forth in an investigation report.

B. Notifying ORI and Respondent; Sequestration of Research Records

On or before the date on which the investigation begins, the RIO must: (1) notify the ORI Director (in the case of PHS funded research) or other pertinent agency (as required by regulation), of the decision to begin the investigation and provide the relevant agency with a copy of the inquiry report; and (2) notify the respondent in writing of the allegations to be investigated. The RIO must also give the respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.

The RIO will, prior to notifying respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the research misconduct proceeding that were not previously sequestered during the inquiry. The need for additional sequestration of records for the investigation 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 Committee

The RIO, in consultation with other institutional officials as appropriate, including the leadership of the appropriate bargaining unit, will appoint an investigation committee and the committee chair as soon after the beginning of the investigation as is practical. The investigation committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the respondent and complainant and conduct the investigation. Individuals appointed to the investigation committee may also have served on the inquiry committee. The RIO will notify the respondent in writing of the proposed committee membership. The respondent will have 10 calendar days to raise objections to the proposed committee membership based on personal, professional, or financial conflict of interest. The Respondent has an obligation to specifically disclose to the RIO any potential conflicts of interest with the proposed membership. The institution will make the final determination of whether a conflict exists.

D. Charge to the 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 related issues identified during the inquiry;
- Identifies the respondent;
- Informs the committee that it must conduct the investigation as prescribed in paragraph E. of this section;
- Defines research misconduct;
- Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;

- Informs the committee that in order to determine that the respondent committed research misconduct it must find that a preponderance of the evidence establishes that: (1) research misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the research misconduct is a significant departure from accepted practices of the relevant research community; and (3) the respondent committed the research misconduct intentionally, knowingly, or recklessly; and
- Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and any agency-specific reporting requirements.

2. 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 this statement of policy and procedures and any sponsor-specific requirements. The RIO will be present or available throughout the investigation to advise the committee as needed.

E. Investigation Process

The investigation committee and the RIO must:

- Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation;
- Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
- Interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any

relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and

- Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible research misconduct, and continue the investigation to completion.

F. Time for Completion

The investigation is to be completed within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to ORI (for PHS funded activities) or other pertinent agencies as required by regulation. However, if the RIO determines that the investigation will not be completed within this 120-day period, he/she will submit to ORI (or other pertinent agency as required by regulation) 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 (or other pertinent agency as required by regulation), if ORI/other pertinent agency grants the request for an extension and directs the filing of such reports.

VIII. The Investigation Report

A. Elements of the Investigation Report

The investigation committee and the RIO are responsible for preparing a written draft report of the investigation that:

- Describes the nature of the allegation of research misconduct, including identification of the respondent;
- Describes and documents any relevant external support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing the external support;

- Describes the specific allegations of research misconduct considered in the investigation;
- Includes the institutional policies and procedures under which the investigation was conducted;
- Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
- Includes a statement of findings for each allegation of research misconduct identified during the investigation. Each statement of findings must: (1) identify whether the research misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by a preponderance of the evidence that he or she did not engage in research misconduct because of honest error or a difference of opinion; (3) identify the specific external support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the respondent has pending with federal and non-federal agencies.

B. Comments on the Draft Report and Access to Evidence

1. Respondent

The RIO must give the respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed 30 days from the date he/she received the draft report to submit comments to the RIO. The respondent’s comments must be included and considered in the final report.

2. Confidentiality

In distributing the draft report, or portions thereof, to the respondent, 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 require that the recipient sign a confidentiality agreement.

C. Decision by Deciding Official

The RIO will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent's comments are included and considered, and transmit the final investigation report to the DO, who will determine in writing: (1) whether the institution accepts the investigation report, its findings, and the recommended institutional actions; and (2) the appropriate institutional actions in response to the accepted findings of research misconduct. If this determination varies from the findings of the investigation committee, the DO will, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the DO may return the report to the investigation committee with a request for further fact-finding or analysis. When a final decision on the case has been reached, the RIO will normally notify both the respondent and the complainant in writing. After informing ORI (in the case of PHS funded activities, or other pertinent agencies as required by regulation), the DO will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified 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 RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

D. Appeals

Within 30 days of receipt of the committee's final investigation report, the Respondent may appeal to either reverse or modify the institution's findings of research misconduct by filing a written notice of appeal with the RIO specifying in detail one or more of the following grounds of appeal:

a. Procedural error in the investigation process that materially affected the outcome; b. Evidence that was not reasonably available during the

investigation and would likely have materially affected the outcome; c. Sanctions that are seriously disproportionate to the gravity of the research misconduct.

The Respondent must include with the notice of appeal filed with the RIO all documentation, information, and evidence to be considered in the appeal.

The RIO shall deliver the appeal to the President of Keene State College, along with the investigation report. The President, upon reviewing the investigation report and any supporting evidence necessary, shall make the final decision to uphold, reverse, or modify the findings of research misconduct, in writing, within 120 days of the filing of the appeal. The President, at his/her sole discretion, shall have the authority to charge the investigating committee with additional investigatory actions as deemed necessary to reaching a decision on the appeal, but all activities and the final decision of the President shall be completed within 120 days of the filing of the appeal.

E. Notice to ORI or Other Pertinent Agencies of Institutional Findings and Actions

Unless an extension has been granted, the RIO must, within the 120-day period for completing the investigation (or the 120-day period for completion of any appeal), submit the following to ORI (in the case of PHS supported activities) or other pertinent agencies as required by regulation: (1) a copy of the final investigation report with all attachments (and any appeal); (2) a statement of whether the institution accepts the findings of the investigation report (or the outcome of the appeal); (3) a statement of whether the institution found misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the respondent.

F. Maintaining Records for Review by ORI or Other Pertinent Agencies

The RIO must maintain and provide to ORI (or other pertinent agencies as

required by regulation) upon request records of research misconduct proceedings. Unless custody has been transferred to HHS or ORI (or another pertinent agency) has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for 7 years after completion of the proceeding. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by ORI or other pertinent agency to carry out its review of an allegation of research misconduct or of the institution’s handling of such an allegation.

IX. Completion of Cases; Reporting Premature Closures to ORI or Other Pertinent Agencies

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The RIO shall notify ORI (or the pertinent agency as required by regulation) in advance if there are plans to close a case at the inquiry, investigation, or appeal stage on the basis that respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except: (1) closing of a case at the inquiry stage on the basis that an investigation is not warranted; or (2) a finding of no misconduct at the investigation stage, which must be reported to ORI (or the pertinent federal agency), as prescribed in this policy.

X. Institutional Administrative Actions

If the DO determines that research misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken, after consultation with the RIO and other institutional officials, including the appropriate collective bargaining unit leadership. The administrative actions may include:

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

- Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;
- Restitution of funds to the grantor agency as appropriate; and
- Other action appropriate to the research misconduct (in consultation with existing internal policies/procedures that may apply to the situation).

XI. Other Considerations

A. Termination 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 research misconduct has been reported, will not preclude or terminate the research misconduct proceeding or otherwise limit any of the institution's responsibilities under any applicable federal agency regulations. If the respondent, without admitting to the misconduct, elects to resign his or her position after the institution receives an allegation of research misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee 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 evidence.

B. Restoration of the Respondent's Reputation

Following a final finding of no research misconduct, including ORI or other pertinent agency concurrence, the RIO must, at the request of the respondent, undertake all reasonable and practical efforts to restore the respondent's reputation. Depending on the particular circumstances and the

views of the respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research misconduct was previously publicized, and expunging all reference to the research misconduct allegation from the respondent's personnel file. Any institutional actions to restore the respondent's reputation should first be approved by the DO.

C. Protection of the Complainant, Witnesses and Committee Members

During the research misconduct proceeding and upon its completion, regardless of whether the institution or ORI/other pertinent federal agency determines that research misconduct occurred, the RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the RIO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The RIO is responsible for implementing any steps the DO approves.

D. Allegations Not Made in Good Faith

If relevant, the DO will determine whether the complainant's allegations of research misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the DO determines that there was an absence of good faith he/she will determine, in consultation with other institutional officials, including the appropriate collective bargaining unit leadership, whether any administrative action should be taken against the person who failed to act in good faith.

E. Eventual Disposition/Maintenance of

Inquiry and Investigation Reports

The RIO will maintain copies of all the reports for at least the period required to fulfill reporting obligations to outside agencies. The DO and President may also have and maintain copies of reports. The inquiry and investigation reports will NOT become part of the respondent’s personnel file maintained by Human Resources.