POLICY STATEMENT

Subject: Policy for Responding to Allegations of Research Misconduct

Date: April 26, 2010 Distribution: All Employees Reference Number:

Revision Date (Endorsed by Senate): April 19, 2011; December 4, 2018

Effective Date: January 15, 2019

Addition ____
Deletion ____
New Item __X__

Originating Office: School of Graduate Studies and Research

President's Approval

1. PURPOSE: To establish a policy and procedure, consistent with all regulations in 42 CFR 93, June 16, 2005, to respond to any allegations or apparent instances of fraud or misconduct in the carrying out of research by IUP faculty, managers, administrators, staff, and students.

2. SCOPE: The policy will cover all IUP faculty, managers, administrators, staff, and students who conduct research.

3. OBJECTIVE: The policy for responding to allegations of research misconduct governs research conducted by IUP faculty, managers, administrators, staff, and students, defines misconduct in research, and establishes procedures for conducting an inquiry and, if necessary, an investigation into any allegation of possible misconduct. The policy also protects the integrity of the University's research mission. The procedures here constitute the entire fact-finding phases of all situations involving alleged research misconduct as defined by 42 CFR 93, June 16, 2005.

4. POLICY:

It is the policy of Indiana University of Pennsylvania to foster an academic environment that encourages ethical conduct in all scholarship. Moreover, IUP will deal forthrightly with possible misconduct associated with research. The University will conduct an inquiry and, if warranted by that inquiry, an investigation of any allegations of misconduct by IUP faculty, managers, administrators, staff, and students carrying out research projects. In the event that misconduct is determined by a preponderance of evidence, the President may take appropriate disciplinary action. Any actions that are proposed to be taken shall be consistent with the relevant Collective Bargaining Agreement (faculty, administrators, or staff) and the PASSHE Board of Governors' Policy 1983-01-A Merit Principles (managers). For students, findings of misconduct will be processed according to the Academic Integrity Policies and Procedures in the Undergraduate and Graduate Catalogs. It is also the policy of the University to maintain and widely promulgate its procedures for dealing with research misconduct.

5. DEFINITION:

"Misconduct" or "Research Misconduct" means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results (see 42 CFR 93, June 16, 2005). Under IUP policy, Research Misconduct also includes failure to comply with Federal regulations and IUP policies for protection of researchers, human subjects, the public, or the welfare of laboratory animals. It does not include honest error, honest differences in interpretations or judgments about data, or disputes about authorship (see 42 CFR 93, June 16, 2005).

6. RESPONSIBILITIES:

It is the responsibility of the Research Integrity Officer (RIO) (Dean of the School of Graduate Studies and Research) to receive initial allegations from a complainant. A complaint must normally be filed within six years of the alleged incident to be considered under this policy. Absent unusual circumstances, within 20 days of receiving a complaint, the RIO should

identify apparent instances of misconduct, determine whether an inquiry is warranted, and if so, initiate an inquiry into possible misconduct. In cases of honest error such as miscalculation or inadvertent omission of a citation, the RIO should dismiss the allegation. However, if the RIO believes that the evidence has the potential to show that (1) research misconduct, as defined in this policy, occurred; (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, the RIO should initiate the inquiry.

Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, including an immediate need to protect human or animal subjects, if federal funds and/or equipment are threatened, if research activities should be suspended, if there is reasonable indication of possible violations of civil or criminal law, if federal action is required to protect the interests of those involved in the research misconduct proceeding, if the research institution believes the research misconduct proceeding may be made public prematurely so that the US Department Health and Human Services (HHS) may take appropriate steps to safeguard evidence and protect the rights of those involved, and/or if the research community or public should be informed (42 CFR § 93.318, June 16, 2005). In the event of such a threat, the RIO will, in consultation with other institutional officials and the Department of Health and Human Services Office of Research Integrity, take appropriate interim action to protect against any such threat. Action might include additional monitoring of the research process and the handling of federal funds and equipment, reassignment of personnel or of the responsibility for handling the federal funds and equipment, additional review of research data and results, and/or delaying publication. When the complaint involves a supervisory relationship (for example, a student enrolled in a faculty member's course), special protections will be considered in protecting the complainant from possible retaliation. Special protections might include: delaying the proceeding where practicable (but not longer than

30 days from the date the faculty member submits the final grade for a student complainant), notifying the complainant of his or her rights under the graduate or undergraduate grade appeal policy and this policy, reassigning the complainant to another supervisor, and/or prohibiting the supervisor from terminating the employee or student worker.

The RIO must maintain sufficiently detailed documentation to permit later assessment of the outcome of the inquiry or investigation. Such records must be maintained by the RIO in a secure place for a period of at least seven years. Access to these records shall, upon request, be provided only to the respondent or designee, or to authorized granting agency personnel. If the investigation results in a finding of research misconduct, the President or his or her designee may also access the documentation for disciplinary purposes. The RIO must oversee the selection of qualified persons to serve on the inquiry and investigatory panels, following the guidelines in 42 CFR 93, June 16, 2005.

It is the responsibility of the President or his or her designee to take appropriate disciplinary action on any faculty member, manager, administrator, staff, or student who has been found to have engaged in research misconduct, according to the applicable contracts, side letters, or academic policies governing the respondent. If the RIO has been accused of research misconduct, then the President will appoint a substitute.

It is the responsibility of the complainant to make allegations in good faith.

It is the responsibility of all participants to maintain confidentiality and to cooperate during all phases of the misconduct proceedings. All participants acknowledge that disclosure of the identity of respondents and complainants in research misconduct proceedings is limited, to the extent possible, to those who need to know, consistent with a thorough, competent, objective and fair research misconduct proceeding, and as allowed by law. At the same time, the panel conducting the research misconduct

proceedings will afford respondents and complainants a prompt and thorough inquiry into the facts, and an opportunity to comment on allegations and the findings of the proceedings.

Additionally, all participants will take all reasonable and practical steps to protect the positions and reputations of good faith complainants, witnesses, and panel members, and to protect them from retaliation. Any alleged or apparent retaliation must be reported to the RIO, who shall review the matter and, as necessary and in consultation with the President, the Associate Vice President for Human Resources, and legal counsel, 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. Any retaliatory actions may result in a separate disciplinary action.

At any point throughout the misconduct proceedings, the respondent may 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 President may terminate the institution's review of an allegation that has been admitted, if the institution's acceptance of the admission and any proposed settlement is approved by the US Department of Health and Human Services Office of Research Integrity.

7. PROCEDURES:

A. Inquiry

A1. DEFINITION: An inquiry consists of information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation. An inquiry is not a formal hearing; its purpose is to separate cases of research misconduct deserving further investigation from frivolous, unjustified, or clearly mistaken allegations or apparent instances.

A2. TIME FRAME: An inquiry must be completed within 60 calendar days of its initiation unless circumstances warrant a longer period.

A3. STRUCTURE: The inquiry will be conducted by a three person panel appointed by the Research Integrity Officer (RIO). If the respondent is a faculty member, all three members will be faculty, chosen by the RIO in consultation with the Provost. At least one faculty member will be from the college, not necessarily from the department, of the respondent. If the respondent is not a faculty member, the RIO will choose two faculty members in consultation with the Provost, while the third member will have the same status (administrator, manager, staff, or student) as the respondent. If a faculty member declines to serve, another faculty member will be chosen.

In all cases, persons chosen to participate on the panel shall have no real or apparent conflict of interest bearing on the case in question. They should be unbiased and have relevant disciplinary expertise for judging the issues being raised.

If the respondent or the complainant believes that any or all of the panel members have a conflict of interest, the respondent or the complainant shall have the duty to state for the record all of the reasons on which the assertion of conflict of interest is based. The panel member who is asserted to have a conflict of interest shall be given the opportunity to respond on the record. If the RIO determines that a real or perceived conflict of interest exists that could reasonably be expected to undermine the proceeding, the RIO will remove the person(s) with a conflict and appoint replacement(s) according to the process outlined above.

A4. PROCESS: The misconduct inquiry procedure is not a method to settle disputes that arise between individuals but a process to determine if research misconduct may have taken place and whether an investigation is warranted.

When a complaint is received the complainant should be interviewed at the inquiry stage and given the transcript or recording of the interview for correction.

If the RIO decides that an inquiry is not warranted, the complainant may appeal this decision to the Provost, who may then order the RIO to proceed with an inquiry.

Upon initiation of an inquiry, the RIO shall make a good faith effort to notify the respondent in writing, shall provide a written copy or summary of the complaint, and shall make available a copy of the Policy for Responding to Allegations of Research Misconduct. The RIO is responsible for immediately requesting controlled custody and inventory of records and evidence relevant to the allegation or case and sequestering these in a secure manner. University faculty members, managers, administrators, staff, and students including but not limited to the complainant and respondent, shall promptly provide upon request all available records and data identified as relevant, including primary research material. Copies of such records and data will be returned promptly, except for materials not amenable to copying. The respondent shall be granted supervised access to materials not amenable to copying throughout the duration of the inquiry and investigation process. All reasonable steps, consistent with time constraints and other obligations imposed by federal regulations, shall be taken to eliminate or minimize any disruption that might be created for ongoing research efforts by such requirements to produce documentation. The respondent will cooperate by providing material necessary to conduct the inquiry. If the respondent refuses to cooperate, the panel will file its report with the RIO and the Provost stating that fact, and the process will automatically proceed to the investigation stage. Failure to provide relevant records and data may subject an individual to a separate disciplinary investigation.

The RIO will prepare a charge for the first meeting of the inquiry panel 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 panel determines: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct defined in this policy; and, (2) the allegation may have substance, based on the panel's review during the inquiry; and informs the inquiry panel that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy and 42 CFR § 93.309(a), June 16, 2005.

During the inquiry, the panel will examine relevant evidence and will call witnesses as necessary to determine whether an investigation is warranted. To the extent possible, each person involved in the investigation will be instructed that all matters involving the investigation shall be considered confidential. Each witness will receive a recording or transcript of his or her testimony and will be given the opportunity to make corrections before the summary appears in the final report. The respondent and/or complainant may choose to have someone present to advise him or her when he or she appears before the panel.

A5. FINDINGS: At the conclusion of the inquiry, a written report shall be prepared that states what evidence was reviewed, summarizes relevant interviews, and includes the conclusions of the inquiry. The respondent shall be given a copy of the report that refers to IUP policy and 42 CFR 93, June 16, 2005, and any relevant subsections therein. The respondent shall have the opportunity to comment on the inquiry report, and the respondent's comments will be included with the final report. The complainant shall be notified whether the inquiry found that an investigation is warranted and will receive for comment the portions of the report that are relevant to the original complaint. If the inquiry takes longer than 60 days to complete, the record of the inquiry shall include documentation of the reasons for exceeding that time limit.

If after examining the evidence, the majority of the inquiry panel believes there is a reasonable basis for concluding that misconduct took place or may have taken place, the panel will recommend that the RIO initiate an investigation. If the panel determines that research misconduct has not occurred, the respondent shall be notified of that fact in writing in a timely manner. Copies of the notification will be forwarded to the University President, the Provost, and the dean of the respondent's college or supervisor.

If the allegation of the complainant was brought in good faith, the final report should state that fact to help ensure the good name of the complainant. However, if during the course of the inquiry, the panel becomes convinced that allegations have not been brought in good faith, the panel will notify the President and Provost in writing of that fact so that appropriate action may be taken.

When, on the basis of the initial inquiry, the inquiry panel determines that an investigation is warranted, the University President, Provost, and the dean of the respondent's college or other supervisor must be notified in writing with a copy of the report so that the investigatory process can begin. The respondent will also be notified in writing of the specifics of the complaint that is the basis of the investigation and also of any new allegations not addressed in the initial inquiry. If the respondent is a member of a collective bargaining unit, his or her union chapter President shall also be notified. In addition, if the research was sponsored by any external agency, that agency must be notified that an investigation involving possible misconduct will be initiated.

B. Investigation

B1. DEFINITION: "Investigation" means the formal, confidential examination and evaluation of all relevant facts to determine if misconduct has occurred.

B2. TIME FRAME: An investigation must begin within 30 calendar days of the formal closing of the inquiry. An investigation must be completed within 120 calendar days of its initiation. This includes conducting

the investigation, preparing the report of findings, making that report available for comment by the respondent, and submitting the report to the appropriate granting agency. If the investigation panel determines that it will not be able to complete the investigation in 120 days, it must notify all participating individuals in writing of the reasons for the delay and must include an explanation for the delay in its final report.

B3. STRUCTURE: The investigation will be conducted by a five-member panel appointed by the RIO, who will serve on the panel as a sixth non-voting, ex-officio member for the purpose of acting as secretary.

If the respondent is a faculty member the investigation panel will be made up of two senior-level managers with relevant disciplinary experience, one of whom will serve as chair, and three university faculty members from outside of the PASSHE system. The faculty must have expertise in the research area associated with the alleged misconduct.

If the respondent is a manager, administrator, staff member, or student, the investigation panel will be made up of two senior-level managers, two faculty, and one manager, administrator, staff member, or student, respective to the status of the respondent. The two senior-level managers will consist of an academic dean, who will serve as chair of the panel, and a second manager to be named by the RIO. Two tenured faculty, one of whom is from outside of IUP, will be chosen to serve on the panel by the RIO. The faculty must have expertise in the research area associated with the alleged misconduct. Finally, the RIO will appoint an appropriately-trained manager, administrator, staff member, or student, respective to the status of the respondent, in consultation with the appropriate union, the Graduate Student Assembly, or the Student Government Association.

In all cases, persons chosen to participate on the panel shall have no real or apparent conflict of interest bearing on the case in question. They should be unbiased and have relevant disciplinary expertise for

judging the issues being raised. If the respondent or the complainant believes that any or all of the panel members have a conflict of interest, the respondent or the complainant shall have the duty to state all of the reasons on which the assertion of conflict of interest is based for the record. The panel member who is asserted to have a conflict of interest shall be given the opportunity to respond on the record. If the Provost determines that a real or perceived conflict of interest exists that could reasonably be expected to undermine the proceeding, the Provost will remove the person(s) with a conflict and appoint replacement(s) according to the process outlined above.

B4. PROCESS: For the purpose of holding meetings, all voting members of the panel must participate in the meeting, either in person or via teleconference. Both the respondent and the complainant must be afforded the opportunity to present information before the panel. The respondent and/or complainant may choose to have someone present to advise him or her when he or she appears before the panel.

At the first investigation panel meeting, the RIO will present a written charge to the panel that: includes the inquiry report; identifies the respondent; informs the panel that it must conduct the investigation as prescribed in this policy; defines research misconduct; informs the panel 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 panel 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; (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 panel that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy and 42 CFR § 93.313, June 16, 2005.

The RIO 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 statement of policy and procedures and 42 CFR 93, June 16, 2005. The RIO will be available throughout the investigation to advise the panel as needed.

The investigation normally will include examination of all relevant documentation, including but not necessarily limited to relevant research data proposals, publications, correspondence, memoranda of telephone calls, and other records. Interviews must be conducted of 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. Interviews must be recorded or transcribed, and relevant portions provided to the interviewed party for correction and included as part of the investigatory file.

The panel may secure necessary and appropriate discipline-related expertise to carry out a thorough evaluation of the relevant evidence during the investigation.

At all times the panel must take precautions against real or apparent conflicts of interest on the part of those giving information or on the part of anyone who is in any way involved with the investigation.

If IUP plans to terminate an inquiry or an investigation for any reason without completing all relevant requirements and if federal funds are being used to support the research, a report of such planned termination, including a description of the reasons for such termination, shall be made to the appropriate granting agency, which will then decide whether further investigation should be undertaken.

B5. FINDINGS: IUP has the burden of proof for making a finding of research misconduct. A finding of

research misconduct must be proved by a preponderance of the evidence. After all the evidence has been reviewed and the respondent and complainant have been given an opportunity to respond to the evidence, the panel will prepare a draft report including the majority opinion and, if there is one, a minority opinion. This draft report will be provided to the respondent and the complainant, who may return comments on the draft report to the RIO within 30 days of receipt of the report. Concurrently, the respondent will have a copy of, or supervised access to, the evidence on which the report is based. These comments must be included and considered in the final report, which will be sent to the University President. The report will describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings, and the recording or transcript of the statements and evidence provided by any relevant individual(s) involved in the investigation. The panel shall indicate whether or not it believes misconduct occurred, based on the three criteria described in section B4, process.

The panel shall submit its findings to the President and to the Provost. The respondent and the complainant shall also receive copies of the majority, and if there is one, the minority report. The RIO must provide the investigation report and other information as required to any external granting agencies that funded the research. The RIO will only send reports to agencies that funded the research, as well as the Department of Health and Human Services Office of Research Integrity if required.

Based on the evidence contained in the report(s), the President may initiate a disciplinary hearing in accordance with the relevant Collective Bargaining Agreement (faculty, administrators, or staff) or the PASSHE Board of Governors' Policy 1983-01-A Merit Principles (managers). Reports involving students may result in disciplinary action according to the graduate or undergraduate Academic Integrity Policies and Procedures.

8.	RECISION:	Not applicable
9.	PUBLICATIONS STATEMENT:	Not Applicable
10.	DISTRIBUTION:	All Employees Annually (by the Dean of the School of Graduate Studies and Research) via the IUP Daily, via email with a link to the policy, and via the IUP Research Policies webpage.