



Executive Policy Chapter 12, Research
Executive Policy EP 12.211, Policy for Responding to Allegations of Research and
Scholarly Misconduct ~~(Note: Previously part of E5.211)~~
Effective Date: ~~October 2014~~ TBD
Dates Amended: ~~October 2014 (Note: E5.211 split into EP 12.211 and AP~~
~~12.211);~~ August 2014; 2005; 1998; 1992; 1989
Responsible Office: - Office of the Vice President for Research and Innovation
Governing Board of Regents Policy Chapter 12.201, Ethical Standards of Conduct
Review Date: ~~August 2019~~ TBD

I. ~~I.~~ Purpose

~~A. Reporting suspected academic, scientific and research misconduct is a shared and serious responsibility of all members of the academic community. Allegations should not be made capriciously, but indications or evidence of fraud or misconduct must not be ignored. Allegations of unethical conduct are serious and can ruin professional careers. The policies and procedures herein provide mechanisms to screen unfounded complaints while minimizing damage to the wrongly accused. When a formal allegation is rendered, the procedures also provide due process rights, as specified in the prevailing UH faculty and staff bargaining unit agreements, to ensure that any decisions rest on evidence fully and fairly assessed.~~

~~B. Principle Investigators have a central role and responsibility in the strategy, operation, and management of their research group. They must make every effort to maintain the standards of professional and ethical conduct, and to foster an environment that discourages misconduct in all areas of their work. Retaining such outstanding integrity conveys respect and credibility among students, colleagues, and the community which the University serves.~~

A. II.—The University of Hawai'i (University) is committed to fostering and maintaining the integrity of research activities conducted at each of its campuses and research facilities. This policy ensures that allegations of Research Misconduct are investigated and resolved in a fair, objective, and timely manner.

B. This policy is specifically issued to ensure the University's compliance with applicable procedural requirements mandated by federal regulations, such as the Public Health Service (PHS) Policies on Research Misconduct, 42 CFR Part 93, as amended.

II. Definitions:

A. ~~A.~~ **Allegation** means a disclosure of ~~possible-observed, suspected, or apparent~~ research and scholarly misconduct through any means of communication. ~~The disclosure may be by written or oral statement or other communication to the~~ to the Research Integrity Officer (RIO) or other institutional official such as an Ethics Committee (EC) member, or Departmental Chairs or Deans department chair, dean, or equivalent.

B. ~~B.~~ **Assessment** means the initial evaluation ~~of an allegation of research misconduct~~ by the ~~Research Integrity Officer and Ethic Committee Chairperson.~~ During this time it will be determined whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified RIO of an Allegation of Research Misconduct, in consultation with an EC representative.

C. ~~Complainant~~ means a person who makes an allegation of research misconduct.

C. ~~D.~~ **Conflict of Interest** means the real or apparent interference of one person's interests with the interests of another person where the disinterestedness of an adjudicator may reasonably be called into question and potential bias may occur due to prior or existing personal or professional relationships. As expressed in **Conflict of Interest** means an unresolved personal, professional, or financial relationship with the Reporting Party, Responding Party, or witnesses that may reasonably call into question the fairness or objectivity of any individual participating in the Research Misconduct Proceeding.

D. **Deciding Official (DO)** means a senior academic or research institutional official appointed by the University president.

~~Executive Policy EP 12.214, a potential or actual conflict of interest exists when commitments and obligations to the University or to widely recognized professional norms are likely to be compromised by a person's other interests or commitments, especially financial, particularly if those interests or commitments are not disclosed.~~

~~E. **Deciding Official (DO)** means a Senior Academic or Research Institutional Official appointed by the University President. This individual makes final determinations on allegations of research misconduct and any institutional administrative action. The DO~~

~~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 Deciding Official's appointment of individuals to evaluate allegations of research misconduct is not considered to be direct prior involvement on the part of the DO.~~

~~E. F.~~ **Ethics Committee (EC)** means the standing committee appointed by the DO and established to assist the RIO in evaluating ~~alleged violations of research misconduct. The Ethics Committee shall have 16 members consisting of a Chairperson and 15 members selected from faculty and staff within the UH system~~ an Allegation of Research Misconduct by serving on Review Panels, as needed.

~~F. G.~~ **Evidence** means any document, tangible item, or testimony offered or obtained during a ~~research misconduct proceeding~~ Research Misconduct Proceeding that tends to prove or disprove the existence of an alleged fact.

~~a. 1.~~ **Burden of Proof.** ~~The University has the burden of proof for making a finding of research misconduct. The destruction, absence of, or respondent's failure to provide research records adequately documenting the questioned research is evidence of misconduct where the University has established by a preponderance of evidence that the respondent intentionally, knowingly, or recklessly had research records and destroyed them, had the opportunity to maintain the records but did not do so, or maintained the records and failed to produce them in a timely manner and that the respondent's conduct constitutes a significant departure from accepted practices of the relevant research community.~~

~~2.~~ **Preponderance of 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.

~~3.~~ **Standard of Proof.** ~~An UH finding of research misconduct must be proved by a preponderance of the evidence.~~

~~G. H.~~ **General Counsel** means the legal counsel who represents the University and is responsible for advising the DO, RIO, EC, and Ethics Committee Review Panels whenever such counsel is sought. ~~The UH~~ In this capacity, the ~~General Counsel~~ Counsel represents only the institutional officials responsible for managing or conducting the University's evaluations of Research Misconduct Allegations as part of their official duties. The General Counsel does not represent the ~~respondent, the complainant/informant, Responding Party, the Reporting Party/Informant~~ or any other person participating during the Inquiry or

Investigation stages, or any follow-up action, ~~except the Institutional officials, EC members, and others responsible for managing or conducting the University of Hawaii's evaluations of research misconduct allegations as part of their official duties.~~

H. ~~I.~~ **Good Faith**, as applied to a ~~complainant~~Reporting Party, Informant, or witness, means having a belief in the truth of one's ~~allegation~~Allegation or testimony such that a reasonable person would call attention to the perceived irregularities known at the time. ~~An allegation~~Allegation, testimony, or cooperation on the part of a ~~complainant, informant~~Reporting Party, Informant, witness, or ~~respondent~~Responding Party is not in good faith if it is made with knowing or reckless disregard for information that would negate the ~~allegation~~Allegation or testimony. Good faith as applied to ~~members of a committee~~an EC member or review panelReview Panel means cooperation for the purpose of helping ~~an institution~~the University meet its responsibilities to investigate ~~potential research misconduct~~an Allegation of Research Misconduct.

I. ~~J.~~ **HHS** means the United States Department of Health and Human Services.

J. ~~K.~~ **Informant** means a person who ~~wishes to remain anonymous and who informs the University (e.g., through the Ethics Committee, the RIO, an institutional official) of the possibility of research misconduct observed, suspected, or apparent Research Misconduct, but wishes to remain anonymous.~~

K. ~~L.~~ **Inquiry** means preliminary information-gathering and fact-finding to determine whether an ~~allegation of research or scholarly misconduct~~Allegation of Research Misconduct warrants an ~~investigation~~Investigation.

L. ~~M.~~ **Institutional Member** means a person who is employed by, is an agent of, or is affiliated by contract or agreement with ~~an institution~~the University, including employees of the Research Corporation of the University of Hawai'i (RCUH). Institutional members may include, but are not limited to officials;_i tenured and untenured faculty;_i teaching and support staff;_i researchers;_i research coordinators;_i clinical technicians;_i postdoctoral and other fellows;_i students;_i volunteers;_i agents;_i and contractors, subcontractors, ~~and~~ sub-awardees, and their employees.

M. ~~N.~~ **Investigation** means the formal development of a factual record and the examination of that record by ~~an EC~~a Review Panel, leading to a ~~decision~~finding whether or not to make a recommendation of a charge of research misconduct or to recommend such a charge. DecisionsResearch Misconduct, which may include a recommendation for other appropriate actions, including institutional

administrative actions. The Review Panel's finding and recommendations are reported in writing to the DO for final determination.

~~O. Institutional Investigation means the Institution's (e.g., DO and Administrators) evaluation of the EC investigation Research Misconduct, for the purpose of either concurring with the EC's findings or initiating ancillary procedures, such as additional interviews and/or further investigation.~~

~~N. P. Misconduct Definition (PHS). For the purposes of PHS regulations and reporting to the Office of Research Integrity, "Misconduct" or "Research Misconduct"-funded activities, means fabrication, falsification, or plagiarism (FFP) in proposing, performing, or reviewing research, or in reporting research results.~~

~~1. 1. Fabrication is making up data or results and recording or reporting them.~~

~~2. 2. 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.~~

~~3. 3. Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.~~

Research Misconduct does not include honest error or differences of opinion.

~~Q. Misconduct Definition (UH). Under this policy (EP 12.211), the UH definition of misconduct includes the PHS definition and the following elements:~~

~~1. Abuse of confidentiality. Taking or appropriating confidential or private information without proper authority or releasing or disclosing to others, without proper authority, ideas, data, or other information given with the expectation of confidentiality. This includes any unauthorized disclosure of personal health information as defined by HIPAA in the context of research misconduct.~~

~~2. Property Violation. Misappropriation, maliciously destroying, or altering without proper authority the research-related papers, data, supplies, equipment, or other products of research or scholarship. "Property" in this context can be regarded as either physical or intellectual property.~~

~~a. 3. Improprieties of Authorship: Improper assignment of credit, such as excluding others, misrepresentation of the same material as original in more than one publication; listing as an author any persons who (i) did not contribute significantly to the published research, (ii) do not or cannot stand behind the research results or (iii) have not carefully examined the~~

~~manuscript. Improprieties also include allowing oneself to be listed as an author when significant contributions have not been made and submission of multi-authored publications without the concurrence of all authors.~~

~~4. Misappropriation of Funds. Using research, or scholarship-related, funds for purposes that are in clear and substantial violation of the terms of a grant or regulations and policies~~

~~5. Violation of generally accepted research practices. Serious deviation from accepted practices in proposing or carrying out research, improper manipulation of experiments to obtain biased results, deceptive statistical or analytical manipulations, or improper reporting of results.~~

~~6. Material failure to comply with federal, state, or university regulations pertaining to care and protection of animal subjects; protection of human subjects; use of recombinant DNA, radioactive, biological, or chemical materials; or the conduct of classified research. This includes but is not limited to serious or substantial willful violations that involve inappropriate use of funds.~~

~~7. Inappropriate behavior including accusations of misconduct made in bad faith, withholding or destruction of information relevant to a claim of misconduct, reckless or false testimony to an Ethics Committee or Review Panel member, and retaliation against persons involved in an investigation.~~

~~8. Deliberate material misrepresentation of qualifications, experience, or research accomplishments to advance a research program, to obtain external funding, or for other professional advancement.~~

~~a. 9. Conduct that violates research and scholarly related ethical standards as expressed in relevant codes of conduct promulgated by professional associations and learned societies within the various disciplines.~~

~~10. Violations of provisions of Executive Policy EP 12.214 regarding conflict of interest.~~

O. R. **Office of Research Integrity (ORI)** means the office to which the U.S. Department of Health and Human Services (HHS) Secretary has delegated responsibility for addressing research integrity and misconduct issues related to PHS supported activities. ~~i~~ (website: <http://ori.dhhs.gov/>) (ORI Website: <http://ori.hhs.gov/>).

P. S. **PHS support** means PHS funding, or applications or proposals therefor, for biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research, or training that may be provided through ~~PHS~~

grants, cooperative agreements, or contracts or sub-grants or subcontracts under those PHS funding instruments; or salary or other payments under PHS grants, cooperative agreements or contracts.

Q. T. ~~Public Health Service~~ ~~or (PHS)~~ means the unit within HHS that includes the Office of Public Health and Science and the following Operating Divisions: Agency for Healthcare Research and Quality; Agency for Toxic Substances and Disease Registry; Centers for Disease Control and Prevention; Food and Drug Administration; Health Resources and Services Administration; Indian Health Service; National Institutes of Health, ~~and the~~ Substance Abuse and Mental Health Services Administration; and the offices of the Regional Health Administrators.

R. U. ~~Records of Research Misconduct Proceedings~~ means: ~~(1) includes all of the following:~~

- ~~1. The research records and evidence secured for the ~~research misconduct proceeding~~ **Research Misconduct Proceeding** pursuant to this policy and 42 CFR §§ 93.305, 93.307(b), and 93.310(d), except to the extent the **RIO Review Panel** determines and documents that those records are not relevant to the proceeding or that the records duplicate other records that have been retained; ~~(2) the documentation of the determination of irrelevant or duplicate records; (3) the inquiry report and final documents (not drafts) produced in the course of preparing that report, including the documentation of any decision not to investigate, as required by 42 CFR § 93.309(c); (4) the investigation report and all records (other than drafts of the report) in support of the report, including the recordings or transcripts of each interview conducted; and (5) the complete record of any appeal within the institution from the finding of research misconduct.~~~~
- ~~2. V. RIO and staff documentation of the Review Panel's determination of any irrelevant or duplicate records;~~
- ~~3. The final Inquiry report and all records in support of the report, including the documentation of any decision to not investigate as required by 42 CFR § 93.309(c);~~
- ~~4. The final Investigation report and all records in support of the report, including the recordings or transcripts of each interview conducted; and~~
- ~~5. The complete record of any appeal within the University from the findings, recommendations, and determinations of Research Misconduct.~~

6. **Reporting Party** means a person who makes an Allegation of Research Misconduct. The Reporting Party is a potential witness who provides evidence or testimony in a Research Misconduct proceeding, or may be an Informant who wishes to remain anonymous
7. **Research** means a systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) relating broadly to public health by establishing, discovering, developing, elucidating or confirming information about, or the underlying mechanism relating to, biological causes, functions or effects, diseases, treatments, or related matters to be studied.
8. **Research Integrity Officer (RIO)** is an institutional official appointed by the DO, or his/her the DO's designee. The RIO, in consultation with the Chairperson of the Ethics Committee, is responsible for: (1) assessing allegations of research misconduct to determine if they fall within the definition of research misconduct, as covered by this policy (EP 12.211) and whether they warrant an inquiry on the basis of the allegation being sufficiently credible and specific so that potential evidence of research misconduct may be identified; (2), whose responsibilities include overseeing inquiries and investigations; and 3) the Research Misconduct Proceeding and providing staff support to Review Panels.
9. ~~W.~~ **Research Misconduct Proceeding** means any actionsaction related to alleged research misconduct that is within Research Misconduct taken under 42 CFR Part 93 and EP 12.211this policy, including but not limited to, allegation assessments, inquiries, investigations the Assessment, Inquiry, Investigation, ORI oversight reviews, hearingsreview, hearing and administrative appealsappeal.
10. ~~X.~~ **Research Record** means the record of data (both written and electronic) or results that embody the facts resulting from academic research or scholarly work, including but not limited to, research proposals, laboratory records, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to the RIO, an EC member, Review Panel, or an institutional official during the course of a research misconduct proceeding.ii Research Misconduct Proceeding.
11. ~~Y.~~ ~~Respondent~~ **Responding Party** means the person against whom an allegationAllegation of research misconductResearch Misconduct is directed and who is the subject of a research misconduct proceeedingResearch Misconduct Proceeding.
12. ~~Z.~~ **Retaliation** means an adverse action taken against, or hostile treatment against, a complainant, informant,Reporting Party; Informant; witness, or; EC

~~Committee member~~; or ~~Review~~ Panel member ~~of this institution or one of its institutional members~~ in response to (1) a good faith ~~allegation~~ Allegation of ~~research misconduct~~ Research Misconduct; or (2) good faith cooperation with a ~~research misconduct proceeding~~ Research Misconduct Proceeding, which ~~adverse action or hostile treatment would dissuade a reasonable person from continuing with the Allegation, or cooperation with a Research Misconduct Proceeding.~~ Adverse action or hostile treatment include but are not limited to, the examples expressed in EP 9.10 Workplace Non-Violence.

~~13.AA.~~ **Review Panel** means the group of University faculty and staff that conducts an ~~inquiry~~ Inquiry or ~~investigation~~ Investigation dealing with ~~allegations~~ an Allegation of Research Misconduct.

III. Executive Policy

A. Mandatory, Discretionary and Concurrent Jurisdiction

1. Mandatory Investigation.

- a. The University must investigate each Allegation of Research Misconduct that meets the PHS definition of Research Misconduct in a manner consistent with the PHS *Policies on Research Misconduct* (42 CFR Part 93). Where research is supported in whole or in part by PHS funds and the Allegation of Research Misconduct encompass FFP, the FFP Research Misconduct Allegation will be given priority over any other intertwined misconduct Allegation.
- b. If the Allegation of Research Misconduct involves research supported by another federal agency, the University must conduct the Research Misconduct Proceeding in accordance with this policy and the regulations of the sponsoring agency.
- c. If there is a conflict between this policy and applicable federal regulations, the federal regulations will apply and supersede any inconsistent provision of this.

2. The Review Panel shall be composed of five (5) individuals. Discretionary Investigations.

The University may, at the discretion of RIO, in consultation with the and an EC representative, investigate the following types of Allegations including, but not limited to the following:

a. Improprieties of Authorship, including but not limited to, improper assignment of credit, such as excluding others, misrepresentation of the same material as original in more than one publication; listing as an author any persons who (i) did not contribute significantly to the published research, (ii) do not or cannot stand behind the research results or (iii) have not carefully examined the manuscript. Improprieties also include allowing oneself to be listed as an author when significant contributions have not been made and submission of multi-authored publications without the concurrence of all authors.

~~Chairperson, will appoint the Review Panel members who may include non-_____ The RIO, upon consultation with an EC members who have relevant expertise representative, may suspend review until the department chair, dean or equivalent, overseeing the academic unit where the alleged authorship dispute arose, has the first opportunity to investigate and resolve the authorship dispute.~~

In the absence of department or discipline-authorship guidelines, the International Committee of Medical Journal Editors (ICMJE) recommended criteria for "Who is an Author?" will be applied.

b. Violation of generally accepted research practices, including but not limited to, serious deviation from accepted practices in proposing or carrying out research; improper manipulation of experiments to obtain biased results; deceptive statistical or analytical manipulations; or improper reporting of results.

c. Deliberate material misrepresentation of qualifications, experience, or research accomplishments to advance a research program, to obtain external funding, or to attain professional advancement.

d. Conduct that violates research and scholarly-related ethical standards as expressed in relevant codes of conduct promulgated by professional associations and learned societies within the various disciplines.

In exercising judgment whether or not to undertake a discretionary investigation, the RIO and an EC representative may consider the extent to which the Allegation, if true, impair or adversely affect the integrity of the research activity at the University. If a discretionary Research Misconduct Proceeding is commenced, the RIO may adapt and apply the procedural requirements mandated by applicable federal regulations or the requirements in this policy.

3.

III. Executive Policy

A. GENERAL POLICY

1. ~~In addition to protection for the accused, the procedures in this document take into account the concerns of those who suspect misconduct. These procedures work to encourage the reporting of misconduct by limiting the burdens and risks on those who bring forward information. The Research Integrity Officer (RIO), in consultation with the Ethics Committee, has the responsibility of investigating allegations of misconduct. To the greatest extent possible, the complainant's and/or informant's assistance in the procedures will remain confidential. In cases where an investigation is not warranted, the RIO will retain a record of efforts to call attention to misconduct, should it later develop that unethical violations were indeed occurring. The respondent is thus spared later accusations of complicity or cover-up.~~

2. ~~Furthermore, in cases where the complainant or informant is uncertain whether violations are taking place, the initial stage provides the opportunity for confidential consultation with knowledgeable individuals. These guidelines specifically distinguish between informants whose testimony will not be required at a hearing and who retain a right to confidentiality, and complainants and witnesses who agree to testify in a hearing and, as a result, waive confidentiality.~~

B. SCOPE

1. Referral to Other University Offices with Concurrent Jurisdiction.

The RIO may refer an Allegation to other University offices that may have concurrent jurisdiction for handling, as appropriate, without prejudice to the University Office of Research Integrity, assuming jurisdiction as may be warranted by the facts and circumstances of the specific matter.

B. Scope of Review

1. ~~This policy and these procedures apply~~applies to all University faculty, researchers, and staff members including, without limitation, ~~students, both graduate and undergraduate, students;~~ postdoctoral fellows and postdoctoral research associates;i visiting faculty or staff;i faculty or staff on sabbatical leave;i adjunct faculty when performing University work ~~and~~i faculty or staff on leave without pay. ~~If; and research personnel employed by the RCUH.~~ This policy also applies if research or scholarly misconduct is suspected to have been committed by a former employee of the UHUniversity while employed by the UH, ~~this policy also applies. Hereafter, the term "research~~

~~misconduct” will be used to refer to any unethical conduct involved in academic, research-related, or scholarly activity (see Definitions Part II, O and P). Misconduct on the part of UH students may be governed by the Student Conduct Code (Office of Student Affairs; July 1992).University.~~

C. COVERAGE

~~1. This policy is written to carry out the University of Hawaii’s responsibilities under the Public Health Service (PHS) Policies on Research Misconduct, 42 CFR Part 93. As such, the policy applies to allegations of research misconduct (e.g., fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results). However, research activities supported by sources of funding other than the PHS are also governed by this policy. Covered by the policy are persons who, at the time of the alleged research misconduct, were employed by, were agents of, or were affiliated by contract or agreement with the University of Hawai’i. The policy applies only to allegations of research misconduct that occurred within six years of the date the institution or HHS received the allegation, excluding those subject to the grandfather exceptions noted in 42 CFR § 93.105(b).~~

~~2. Activities included are non-PHS and PHS-supported biomedical or behavioral research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information, (2) applications or proposals for funding to support biomedical or behavioral research, research training or activities related to that research or research training, or (3) plagiarism of research records produced in the course of funded research, research training or activities related to that research or research training. This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal for funds resulted in a grant, contract, cooperative agreement, or other form of support.~~

~~3. This policy also applies to a broader range of research and scholarly misconduct that includes, but is not limited to, fraud and/or misappropriation of funds, and violations of Federal and/or State of Hawai’i regulations with respect to the protection of human and animal subjects, conflict of interest, use of recombinant DNA, use of radioactive material, biosafety, and use of hazardous chemicals. See also, Section II. Definitions, Part P - Misconduct Definition (UH).~~

D. RIGHTS AND RESPONSIBILITIES

2. ~~1.~~ This policy applies only to an Allegation of Research Misconduct that occurred within six (6) years of the date the University or HHS received the Allegation, except where:

- a. The Responding Party continues or renews any incident of alleged Research Misconduct that occurred before the six-year limitation though the citation, republication or other use for the potential benefit of the Responding Party of the Research Record; or
- b. If the University determines that the alleged misconduct, if it occurred, would have a substantial adverse effect on the health or safety of the public.

C. Functions

1. Research Integrity Officer (RIO)

The ~~Deciding Official (DO)~~ will appoint the RIO who will have primary responsibility for implementation of the ~~institution's~~University's policies and procedures on ~~research misconduct.~~Research Misconduct.

~~The RIO will be an institutional official who is well qualified to administer the procedures and is sensitive to the varied demands made on those who conduct research, those who are accused of research misconduct, those who make good faith allegations of research misconduct, and those who may serve on inquiry and investigation panels.~~is responsible for the following:

~~A detailed listing of the responsibilities of the RIO are as follows:~~

- ~~a. a. Consult~~Consulting confidentially ~~and/or hypothetically~~ with persons uncertain about whether to submit an ~~allegation~~Allegation of ~~research misconduct~~Research Misconduct;
- ~~b. Receive allegations of research misconduct;~~
- ~~c. In consultation with the Chairperson of the Ethics Committee, 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;~~
- ~~b. d. Receiving an Allegation of Research Misconduct;~~
- ~~c. Consulting with an EC representative in assessing each Allegation of Research Misconduct;~~
- ~~d. As necessary, take~~taking interim action and ~~notify in cases involving FFP and PHS support, notifying~~ ORI of any special circumstances, ~~in accordance with Section IV.,F. of this policy;~~

- e. e. Sequester~~Sequestering~~ research data and evidence pertinent to the ~~allegation of research misconduct in accordance with Section V., C. of this policy and maintain it~~ Allegation of Research Misconduct and maintaining the data securely in accordance with this policy and applicable ~~law~~laws and ~~regulation~~regulations;
- f. f. Provide~~Providing~~ confidentiality to those involved in a ~~research or scholarly misconduct proceeding~~ Research Misconduct Proceeding as required by University policies, 42 CFR § 93.108, and other applicable ~~law,~~laws and ~~institutional policy~~regulations;
- g. g. Notify~~Notifying~~ the ~~respondent~~ Responding Party and ~~provide~~providing opportunities for ~~him/her~~ the Responding Party to review¹, comment¹ and respond to ~~allegations~~ an Allegation of Research Misconduct, evidence, and ~~panel~~ draft Inquiry and Investigation reports in accordance with Section III., C. of this policy;
- h. h. Inform respondents, complainants, Informing the Responding Party, Reporting Party and witnesses of the procedural steps in a ~~research misconduct proceeding~~ Research Misconduct Proceeding;
- i. i. Appoint in consultation Consulting with the Chairperson of the Ethics Committee, an EC representative in appointing Review Panel members to conduct the inquiry Inquiry and investigation review panels, ensure Investigation, ensuring that ~~those panels~~ Review Panels are properly staffed, and ensuring that ~~there is~~ Review Panels have the expertise appropriate to carry out a thorough and authoritative evaluation of the ~~evidence~~ Evidence;
- j. j. Determine Determining whether ~~each~~ any person ~~involved in handling an allegation of research misconduct~~ considered for appointment to a Review Panel has an unresolved personal, professional, or financial ~~conflict of interest and take~~ relationship with either the Reporting Party, Responding Party, or witness; and taking appropriate action, including recusal, to ensure that no person with such ~~conflict~~ unresolved relationship is involved in the ~~research misconduct proceeding~~ Research Misconduct Proceeding;
- k. k. In cooperation with Consulting with the appropriate University Office of Human Resources and other institutional officials, ~~take to protect or restore the positions and reputations of a good faith Reporting Party, Informant, witness, or Review Panel member and countering potential or actual Retaliation against them by a Responding Party or other Institutional~~

Members:

- l. In cases where a Responding Party is found not culpable at any stage in the Research Misconduct Proceeding, taking all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, informants, witnesses, and panel members and counter potential or actual retaliation against them by respondents or other institutional membersResponding Party's position and reputation;
- ~~l. In cases where a respondent is found not culpable at any stage in the proceedings, all reasonable and practical steps will be taken to protect or restore his/her position and reputation;~~
- ~~m. Consult with institutional legal counsel;~~
- m. n. Keep the Deciding Official and others Consulting with General Counsel and other UH Offices and institutional officials, as appropriate;
- n. Keeping the DO and other institutional officials who need to know apprised of the Review Panel's progress in reviewing an Allegation of review of allegations of research misconductResearch Misconduct;
- o. e. Notify and make In cases involving FFP and PHS support, providing notices and reports to ORI as required by 42 CFR Part 93;
- p. p. Ensure Ensuring that institutional administrative actions taken by the institution University and/or ORI are enforced and take appropriate action to notify notifying other involved parties of those actions, such as sponsors, law enforcement agencies, professional societies, editors of journals, and licensing boards of those actions; and
- q. q. Maintain Maintaining records of the research misconduct proceeding Research Misconduct Proceeding and make them in cases involving FFP and PHS support, making the records available to ORI in accordance with Section VIII., F. of this policy.

2. 2. Complainant Reporting Party/Informant

- a. Complainants are _____
 - a. The Reporting Party is responsible for making allegations an Allegation in good faith Good Faith, maintaining confidentiality, and cooperating with the assessment, inquiry and investigation. As a matter of good practice, the complainant should be interviewed conduct of an Assessment, Inquiry

~~or Investigation. The Review Panel may interview the Reporting Party at the inquiry~~Inquiry stage and ~~given the transcript or recording of the interview for correction. The complainant must be interviewed during an investigation, and be given~~provide the transcript or recording of the interview to the Reporting Party for correction. The Review Panel must interview the Reporting Party during the Investigation stage. The transcript or recording of the interview will be given to the Reporting Party for correction.

~~b. b.~~The informant~~Informant~~ is also responsible for making ~~allegations~~an Allegation in ~~good faith~~Good Faith, maintaining confidentiality, and, to the extent possible, cooperating with the ~~research misconduct process. The informant~~Research Misconduct Proceeding. The Informant is under no obligation to be interviewed and retains the right to remain anonymous. However, it must be noted that ~~whereas~~although the University may be able to control its own investigative process, anonymity cannot be guaranteed in a court of law or in arbitration of a grievance ~~anonymity cannot be guaranteed.~~

~~c. c.~~As a matter of policy or on the basis of case-by-case determinations, the institution~~The Review Panel~~ may provide to the ~~complainant~~Reporting Party for comment: (1) relevant portions of the ~~inquiry~~Inquiry report (within a timeframe that permits the ~~inquiry~~Inquiry to be completed within ~~sixty (60)~~sixty (60) ~~calendar~~ days of its initiation); and (2) the draft ~~investigation~~Investigation report or relevant portions of it. Comments on ~~the any~~ report~~(s)~~ must be submitted within ~~fourteen (14)~~fourteen (14) ~~calendar~~ days of the date on which the ~~complainant~~Reporting Party received the report~~(s)~~. Comments made by the ~~complainant~~Reporting Party on the draft ~~investigation~~Investigation report will be included in the final ~~investigation~~Investigation report.

3. Respondent

~~d. a.~~The respondent~~The Reporting Party is considered a witness who can provide testimony or identify potential Evidence of Research Misconduct. The RIO, EC, or Review Panels do not represent the Reporting Party's personal interests in a Research Misconduct Proceeding.~~

3. Responding Party

~~a.~~The Responding Party is responsible for maintaining confidentiality, cooperating with the conduct of an ~~assessment, inquiry and investigation~~Assessment, Inquiry or Investigation, providing good-faith

testimony, and refraining from retaliatory actions. The ~~respondent~~Responding Party is entitled to:

- ~~(1)~~ (4) A good faith effort from the RIO to notify the ~~respondent~~Responding Party in writing at the time of or before beginning an ~~inquiry~~inquiry;
- ~~(2)~~ (2) An opportunity to comment on the ~~inquiry~~draft Inquiry report and have his/her comments attached to the report;~~iv~~
- ~~(3)~~ (3) Be notified of the outcome of the ~~inquiry~~Inquiry, and receive a copy of the ~~inquiry~~Inquiry report that includes a copy of, or refers to, 42 CFR Part 93 and the ~~institution's~~University's policies and procedures on ~~research misconduct~~Research Misconduct;
- ~~(4)~~ (4) Be notified in writing of the allegations provided with written notification of an Allegation to be investigated ~~within a reasonable time after the determination that an investigation is warranted, but~~ before the ~~investigation~~Investigation begins ~~(and within thirty (30) calendar days after the institution~~University decides to begin an investigation), ~~and be notified in writing~~Investigation;
- ~~(5)~~ Be provided with written notification of any new ~~allegations~~Allegation not addressed in the ~~inquiry~~Inquiry or ~~included~~ in the initial ~~Investigation~~ notice ~~of investigation~~, within a reasonable time ~~after the University is notified of the new Allegation~~;
- ~~(6)~~ (5) Be interviewed during the ~~inquiry and investigation~~Inquiry and Investigation, ~~be given the opportunity to~~ correct and certify ~~the recording or transcript~~any interview recordings or transcripts, and have the corrected recording or transcript included in the record of the ~~investigation~~Investigation;~~vii~~
- ~~(7)~~ (6) Have the Review Panel interview during the ~~investigation~~Investigation any witness who has been reasonably identified by the ~~respondent~~Responding Party as having information on relevant aspects of the ~~investigation~~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~~Investigation; and
- ~~(8)~~ (7) ~~Receive~~Be given a copy of the draft ~~investigation~~Investigation report and, concurrently, a copy of, or supervised access to the

~~evidence~~Evidence on which the report is based, and be notified (a) that any comments must be submitted within fourteen (14) calendar days of the date on which the copy was received and (b) that the comments will be ~~considered by the institution and addressed~~included in the final Investigation report.

~~b. b.~~The Responding Party shall be given the opportunity to admit that ~~research misconduct~~Research Misconduct occurred and that ~~he/she/they~~ committed the ~~research misconduct~~Research Misconduct. With the advice of the RIO and ~~institutional legal counsel, the Deciding Official~~General Counsel, the DO may terminate the ~~institution's~~Review Panel's review of an ~~allegation~~Allegation that has been admitted if the ~~institution's~~Review Panel's acceptance of the admission is approved by ORI ~~when (in cases involving FFP and PHS funds are involved support)~~.

~~c. c.~~As provided in 42 CFR § 93.314(a), the Responding Party will have the opportunity to appeal ~~an institutional decision~~the University's finding of Research Misconduct. Procedures contained in relevant collective bargaining agreements will also apply. For interviews with the Review Panel, the ~~respondent~~Responding Party has the right to request union assistance and may request that a union agent be present at the interview.

4. Deciding Official (DO)

a. The DO shall not be the same individual as the RIO and may not have any direct prior involvement in the University's Assessment, Inquiry, or Investigation of an Allegation of Research Misconduct.

b. The DO will appoint individuals to the EC. Such appointments to the EC are not considered to be a direct prior involvement on the part of the DO in a Research Misconduct Proceeding.

c. The DO will receive the inquiry~~Inquiry~~ report and ~~after consulting~~consult with the RIO and ~~the~~an EC ~~Chairperson, representative to~~ decide whether an ~~investigation~~Investigation is warranted. Any finding that an ~~investigation~~Investigation is warranted must be made in writing by the DO and must be provided to ORI ~~(in cases where involving FFP and PHS funds are involved support)~~, together with a copy of the ~~inquiry~~Inquiry report meeting the requirements of 42 CFR § 93.309, within thirty (30) calendar days of the ~~finding~~DO determination. If it is found that an ~~investigation~~Investigation is not warranted, the DO and the RIO will

ensure that detailed documentation of the ~~inquiry~~Inquiry is retained for at least seven (7) years after termination of the ~~inquiry~~Inquiry, so that ORI may assess the reasons why the ~~institution~~University decided not to conduct an ~~investigation~~Investigation.

~~d.~~ b. The DO will receive the ~~investigation~~Investigation report and, after consulting with the RIO and other appropriate institutional officials, decide the extent to which ~~this institution accepts~~the University will accept the findings ~~of the investigation and, if research misconduct and~~recommendations of the Investigation. If Research Misconduct is found, the DO will decide what, if any, institutional administrative actions are appropriate. ~~If in cases involving FFP and PHS funds are~~involved support, the DO shall ensure that the final ~~investigation~~Investigation report, the findings of the DO and a description of the any pending or completed institutional administrative ~~action~~actions are provided to ORI, ~~(in cases involving FFP and PHS support)~~, as required by 42 CFR § 93.315.

E. GENERAL PRINCIPLES AND POLICIES

~~4.~~ e. The DO is responsible for making final determinations on an Allegation of Research Misconduct and any institutional administrative actions.

D. General Principles and Policies to Promote Research Integrity and Resolve Allegations of Research Misconduct.

1. Responsibility to Report Misconduct.

~~a.~~ a. All institutional members should immediately report observed, suspected, or apparent ~~research misconduct directly to the RIO, to members of the University of Hawaii administration, or to members of the Ethics Committee. Any Research Misconduct to the RIO, or other~~institutional official ~~or such as an EC member of the Ethics Committee, department chair, dean or equivalent. Any institutional official or EC member~~ who receives an ~~allegation~~Allegation of ~~research misconduct~~Research Misconduct must report it immediately to the RIO.

~~b.~~ b. If an individual the person reporting the Allegation of Research Misconduct is unsure whether a suspected incident falls within the definition of ~~research misconduct, he or she may meet with or contact the RIO to~~Research Misconduct, the person may informally discuss the suspected ~~research misconduct informally~~Research Misconduct with the RIO, which may include discussing ~~the suspected Research~~

Misconduct anonymously and/or hypothetically.

- c. If the circumstances described by the individual person do not meet the definition of research misconduct Research Misconduct, the RIO will refer the individual person or allegation Allegation to other University offices or officials with responsibility for resolving the problem, if appropriate.

2. 2. Cooperation with Misconduct Proceedings.

- a. a. Institutional members Members should cooperate with the RIO and other institutional officials in the review of allegations an Allegation and the conduct of assessment, inquiries, and investigations. the Assessment, Inquiry and Investigation.
- b. Institutional members Members, including respondents Responding Parties, have an obligation to provide evidence relevant to research misconduct allegation the Allegation of Research Misconduct to the RIO, EC Chairperson representative, Review Panel, or to other institutional officials.

3. 3. Confidentiality.

- a. a. The RIO shall, as required by 42 CFR § 93.108, (1) limit disclosure of the identity of respondents, complainants, informants a Responding Party, Reporting Party, Informant, and witnesses witness to those who need to know in order to carry out carry out a thorough, competent, objective, and fair research misconduct proceeding Research Misconduct Proceeding; and (2) except
- b. Except as may otherwise prescribed be required by law, limit the the RIO shall maintain confidentiality in order to carry out a thorough, competent, object and fair Research Misconduct Proceeding, by limiting disclosure of any the following to those who need to know:
- (1) The identity of Responding Parties, Reporting Parties, Informants and witnesses; and
 - (2) Any records or evidence Evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding.

4. Protecting Complainants, Informants, Witnesses and Committee Members.

4. a. Reporting Party, Informant, Witness, EC member, or Review Panel member.

a. Institutional ~~members~~Members may not retaliate in any way against ~~complainants, informants, witnesses, or committee members.~~a Reporting Party, Informant, witness, EC member, or Review Panel member. Institutional ~~members~~Members should immediately report any alleged or apparent ~~retaliation~~Retaliation against ~~complainants, informants, witnesses~~a Reporting Party, Informant, witness, EC member, or committee membersReview Panel member to the RIO, ~~who~~.

b. The RIO shall review the matter and, as necessary, take all reasonable and practical efforts to counter any potential or actual ~~retaliation~~Retaliation, and protect and restore the position and reputation of the person against whom the ~~retaliation~~Retaliation is directed.

5. 5. Protecting the RespondentResponding Party.

a. a. 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~~Research Misconduct, but against whom no finding of ~~research misconduct~~Research Misconduct is made. ~~ix~~

b. b. During the ~~research misconduct proceeding~~Research Misconduct Proceeding, the RIO is responsible for ensuring that ~~respondents receive~~the Responding Party receives all the notices and opportunities provided for in 42 CFR Part 93, ~~and the policies and including this policy and accompanying administrative procedures of the institution.~~

6. 6. Interim Administrative Actions and Notifying ORI of Special Circumstances.

a. a. Throughout the ~~research misconduct proceeding~~Research Misconduct Proceeding, the RIO will ~~review the situation to determine if~~assess whether there is any threat of harm to public health, federal funds and equipment, ~~or to~~ the integrity of the supported research process. In the event of ~~such a~~any threat, the RIO will, in consultation with other institutional officials and ORI, ~~(in cases involving FFP and PHS support),~~ take appropriate interim action to protect against any ~~such~~ threat. ~~x~~ Interim action ~~might~~may include additional monitoring of the research process and the handling of federal funds and equipment, ~~reassignment of personnel or of the responsibility for the handling of federal funds and equipment,~~ additional review of research data and results, ~~or delaying~~

publication. ~~The~~

b. ~~In cases involving FFP and PHS support, the~~ RIO shall, at any time during a ~~research misconduct proceeding~~Research Misconduct Proceeding, immediately notify ORI, ~~if PHS funds are involved and if he/she if the RIO~~ has reason to believe that any of the following conditions exist or ~~if any of the~~ following actions are advisable:

(1) ~~(1)~~ HHS resources or interests are threatened;

(2) ~~(2)~~ Research activities should be suspended;

(3) ~~(3)~~ There is a reasonable indication of possible violations of civil or criminal law;

(4) ~~(4)~~ Federal action is required to protect the interests of those involved in the ~~research misconduct proceeding~~Research Misconduct Proceeding; or

(5) ~~b. The research misconduct proceeding~~The Research Misconduct Proceeding may be made public prematurely and HHS action may be necessary to safeguard ~~evidence~~Evidence and protect the rights of those involved.

b. ~~c.~~ If at any time during an ~~assessment, inquiry,~~Assessment, Inquiry or ~~investigation~~Investigation, it appears that there has been a violation of criminal law, the ~~proceedings~~Research Misconduct Proceeding will be suspended, ~~the Deciding Official. The RIO will be notified, and he or she~~notify the DO, who will consult with the ~~University~~ General Counsel Office to determine the next action to be taken.

IV. ~~IV.~~ Delegation of Authority

The ~~respective campus Chancellor~~University of Hawai'i Vice President for Research and Innovation is delegated authority to serve as the Deciding Official. ~~The campus Chancellor may designate a campus Vice Chancellor as the campus' designated Deciding Official.~~

V. ~~V.~~ Contact Information

~~Office of the Vice President for Research and Innovation~~

Phone Number: (808) 956-5006
Email: uhovpri@hawaii.edu

VI. The University of Hawai'i UH Office of Research Integrity may be contacted at uhrio@hawaii.edu for information relating to this Executive Policy.

VI. References

~~A. 42 CFR § 93.217; 42 CFR § 93.224; 42 CFR §§ 93.304(c), 93.307(b); 42 CFR §§ 93.304(e), 93.307(f); 42 CFR § 308(a); 42 CFR § 310(c); 42 CFR § 310(g); 42 CFR § 93.309(c); 42 CFR § 93.304(k); 42 CFR § 93.304(h); 42 CFR § 93.309(a); 42 CFR § 93.309(a) and (b); 42 CFR § 93.310(a); 42 CFR § 93.310(b) and (c); 42 CFR § 93.310(d); 42 CFR § 93.310(e); 42 CFR § 93.310(f); 42 CFR § 93.310(g); 2 CFR § 93.313; 42 CFR § 93.313(f); 42 CFR § 93.317(b); 42 CFR § 93.316(a); 42 CFR § 93.304(k); 42 CFR § 93.304(l)~~

- B. 42 CFR Part 93, Public Health Service Policies on Research Misconduct.
- Regents Policy 12.201 Ethical Standards of Conduct.
- AP 12.211 Administrative Procedures for Responding to Allegations of Research and Scholarly Misconduct.
- Link to superseded Executive Policies in old format
<https://www.hawaii.edu/policy/archives/ep/><<https://www.hawaii.edu/policy/archive/s/ep/>>
- C. Link to Administrative Procedures in old format
<https://www.hawaii.edu/policy/archives/apm/sysap.php><<https://www.hawaii.edu/policy/archives/apm/sysap.php>>

Approved:

October 31, 2014

David Lassner
President

Date