BOARD OF TRUSTEES
UNIVERSITY OF PUERTO RICO

CERTIFICATION NUMBER 45
2006-2007

I, Salvador Antonetti Zequeira, Secretary of the Board of Trustees of the University of Puerto Rico, DO HEREBY CERTIFY THAT:

The Board of Trustees, in its regular meeting held on February 24, 2007, upon the recommendation of the President of University of Puerto Rico, approved:

> **The System-Wide Policy and Procedures for Responding to Allegations of Possible Research Misconduct of the University of Puerto Rico.**
>
> **The Policy is attached and incorporated to this Certification.**

Issued under the seal of the University of Puerto Rico in San Juan, Puerto Rico, this 28th day of February 2007.

Salvador Antonetti Zequeira
Secretary

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UNIVERSITY OF PUERTO RICO
BOARD OF TRUSTEES

System-Wide Policy and Procedures for Responding to Allegations of Possible Research Misconduct

Certification No. 45 (2006-2007)
February 28, 2007

University of Puerto Rico
System-Wide Policy and Procedures for Responding to Allegations of Possible Research Misconduct

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I. Introduction

A. General Policy

The University of Puerto Rico (UPR) is committed to promoting the highest standards of excellence and integrity in research. To achieve this, UPR strives to provide an environment in which faculty and students may pursue knowledge objectively and in accordance with ethical norms. Misconduct in research constitutes unacceptable behavior for faculty, staff, and students, and it is prohibited by UPR. In order to safeguard research against actions that undermine its integrity and the public's trust, this system-wide institutional policy, with general procedures, has been established to discourage and address effectively allegations of misconduct in research and research-related activities and for reporting to the pertinent agencies, when required.

B. Scope

This policy applies to allegations of research misconduct involving any institutional member as defined in Section II.I. of this policy. This policy also applies to noncompliance with federal, state, or institutional regulations concerning human subjects, animal care and use, recombinant DNA, and other types of regulations governing research.

This policy and associated procedures will normally be followed when an allegation of possible research misconduct is received by an institutional official designated on each campus. Particular circumstances in an individual case may dictate deviation from normal procedures when the Chancellor determines it to be in the best interest of UPR or as directed by responsible federal agencies. When PHS support, NSF funding or other federal funding is involved, the funding agency's policy on research misconduct will apply in addition to this system-wide policy,[1] and the appropriate federal agency should be contacted at the times and in the manner prescribed in this policy and applicable federal policy.

II. Definitions

A. *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 or federal official.

B. *Applicable agencies* means ORI if PHS support is involved, NSF if it has jurisdiction, and other agencies whose policies require specific actions and reporting of research misconduct.

C. *Committee member* means any individual serving on the inquiry committee or the investigation committee.

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[1] PHS regulations are codified at 42 C.F.R. Part 93. NSF regulations are codified at 45 C.F.R. Part 689.

D. *Complainant* means a person who in good faith makes an allegation of research misconduct.

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

F. *Good faith* as applied to a complainant or witness, means having a belief in the truth of one's allegation or testimony that a reasonable person in the complainant's 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 UPR meet its responsibilities under this policy and applicable regulations. 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.

G. *HHS* means the United States Department of Health and Human Services.

H. *Inquiry* means preliminary information-gathering and preliminary fact-finding that meet the criteria and follow the procedures set forth in Section V and VI of this policy and applicable federal regulations.

I. *Institutional member* means a person who is employed by, is an agent of, or is affiliated by contract or agreement with UPR. Institutional members may include, but are not limited to, officials, tenured and untenured faculty, teaching and support staff, researchers, research coordinators, clinical technicians, postdoctoral and other fellows, students, volunteers, and agents; and contractors, subcontractors, and sub awardees, and their employees.

J. *Investigation* means the formal development and examination of a factual 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 administrative or other appropriate action.

K. *NSF* means the National Science Foundation.

L. *ORI* means the HHS Office of Research Integrity.

M. *PHS* means the federal Public Health Service.

N. *PHS support* means PHS funding, or applications or proposals for biomedical or behavioral research, biomedical or behavioral research training, or activities related to that research or training, that may be provided through: Funding for PHS intramural research, 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.

O. *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.

P. *Research Integrity Officer* means the official on each campus who is responsible for assessing allegations of research misconduct and determining when such allegations warrant inquiries and for overseeing inquiries and investigations.

Q. *Research misconduct* means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

(a) *Fabrication* is making up data or results and recording or reporting them.

(b) *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.

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

(d) Research misconduct does not include honest error or differences of opinion.

R. *Research misconduct proceeding* means any actions related to alleged research misconduct, including but not limited to, allegation assessments, inquiries, and investigations.

S. *Research record* means the record of data or results that embody the facts resulting from scientific 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 federal or institutional official by a respondent in the course of the research misconduct proceeding.

T. *Respondent* means the person against whom an allegation of research misconduct is directed or who is the subject of research misconduct proceeding.

U. *Retaliation* means an adverse action taken against a complainant, witness, or committee member by UPR or one of its institutional members in response to –

(a) A good faith allegation of research misconduct; or

(b) Good faith cooperation with a research misconduct proceeding.

III. Roles and Responsibilities

A. Institutional Responsibility

Each campus and institutional unit is responsible for fostering a research environment that discourages misconduct in research and for implementing the procedures required for compliance with this system-wide policy, as well as with the requirements established by the funding sponsor(s) for each specific project.

B. Chancellor

The Chancellor of each campus is responsible for developing mechanisms to make this policy and its procedures known to all faculty, staff, students, and collaborators, and to carry out the procedures contained in this policy. If needed, this responsibility shall include, but is not limited to, the development of campus-wide policies that conform to the specific campus profile and conform to this system-wide policy and procedures.

The Chancellor or the Chancellor's designee will receive the inquiry report, and after consulting with the Research Integrity Officer, decide whether an investigation is warranted. Within 30 days of the Chancellor's or designee's finding that an investigation is warranted, or when required by regulation,[2] the Research Integrity Officer shall provide any applicable federal agency with the written findings of the Chancellor or designee and a copy of the inquiry report meeting the requirements of Section VI.A. of this policy.

The Chancellor or the Chancellor's designee will receive the investigation report and, after consulting with the Research Integrity Officer and other appropriate officials, decide the extent to which UPR accepts the findings of the investigation and, if research misconduct is found, decide what, if any, institutional administrative actions are appropriate. The Research Integrity Officer will ensure that the appropriate federal agency is provided with the final investigation report, a statement as to whether UPR accepts the investigation's findings, a statement as to whether UPR found research misconduct, and if so, who committed the misconduct, and any pending or completed administrative actions against the respondent.

C. Research Integrity Officer

The Chancellor of each campus will appoint a Research Integrity Officer under the Dean of Academic Affairs or the Dean of Graduate Studies and Research ("Dean"), as applicable. The Research Integrity Officer will have primary responsibility for implementation of UPR's policies and procedures on research misconduct. The Research Integrity Officer will be an institutional official who is well qualified to administer the research misconduct procedures.

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[2] In cases involving NSF jurisdiction, the NSF Office of Inspector General must be notified immediately.

D. Complainant

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation. The complainant may be interviewed at the inquiry stage and given the transcript or recording of the interview for correction. In addition, the Research Integrity Officer may provide the complainant with relevant portions of the inquiry report for comment.

The complainant shall have an opportunity to be interviewed during an investigation, and if interviewed shall be given the transcript or recording of the interview for correction. The Research Integrity Officer may provide the complainant with the draft investigation report or relevant portions of the report for comment. Any comments must be submitted within 30 days of the complainant's receipt of the draft investigation report or relevant portions of the report. If comments are received from the complainant, those comments shall be considered and included in the final investigation report.

E. Respondent

The respondent is responsible for maintaining confidentiality and cooperating with the inquiry and investigation. The Research Integrity Officer will make a good faith effort to notify the respondent in writing at the time of or before beginning an inquiry. The respondent will be given an opportunity to comment on the inquiry report, within 10 days of receiving the report, and have his/her comments attached to the report. The respondent will be notified of the outcome of the inquiry and receive a copy of the inquiry report that includes a copy of or refers to pertinent regulations and this policy.

If UPR conducts a research misconduct investigation, a good faith effort will be made to notify the respondent 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. If a decision is made to pursue allegations of research misconduct that were not addressed in the initial notice of investigation, the respondent will be given timely notice of such new allegations against him/her.

The respondent will have an opportunity to be interviewed during the investigation and an opportunity to correct the recording or transcript of the interview. The recording or transcript will be included in the record of the investigation. The respondent may identify persons who have information on relevant aspects of the investigation. The institution shall interview identified persons who are available and give them an opportunity to correct the recording or transcript of the interview. The corrected recording or transcript shall be included in the record of investigation.

The respondent will be provided with a copy of the draft investigation report and, concurrently, a copy of or supervised access to the evidence on which the report is based. The respondent may submit comments on the draft investigation report within 30 days of the date on which the draft was received. Timely comments will be considered by UPR and included in the final report.

The respondent will have an opportunity to appeal the findings of the Chancellor or the Chancellor's designee regarding research misconduct. Any appeal must comply with

Certification 44 (1984-1985), as amended by Certification 94 (1989-1990), of the Council of Higher Education/Board of Trustees, as applicable. If the result of the appeal could result in a reversal or modification of findings of research misconduct, the appeal shall ordinarily be completed within 150 days from its filing.

IV. General Policies and Principles

A. Responsibility to Report Misconduct

Any faculty member, student, or staff who believes in good faith that an act of research misconduct is taking place or has taken place at UPR has an obligation to report his/her concerns to a UPR official or directly to the Research Integrity Officer. University officials who become aware of situations of possible research misconduct, either by their own observations or because of reports from others, have a responsibility to report them to the Research Integrity Officer in order to assure that the proper procedure is followed. If the circumstances described by the individual do not meet the definition of research misconduct, the Research Integrity Officer will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

Institutional members may discuss with the Research Integrity Officer and other appropriate UPR officials concerns about possible research misconduct and appropriate procedures for reporting allegations. The Research Integrity Officer and other officials will keep such discussions confidential to the extent feasible consistent with this policy and applicable law.

B. Cooperation with Research Misconduct Proceedings

Institutional members will cooperate with the Research Integrity Officer and other institutional officials in the review of allegations of research misconduct and in conducting inquiries and investigations. Institutional members, including respondents, have an obligation to provide evidence relevant to research misconduct proceedings to the Research Integrity Officer or other appropriate institutional officials.

C. Confidentiality

The Research Integrity Officer will endeavor to protect the confidentiality of respondents, complainants, and research subjects identifiable from research records or evidence by limiting disclosure to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding or as required by law.

D. Interim Administrative Actions and Notifying Federal Agencies of Special Circumstances

Throughout the research misconduct proceeding, the Research Integrity Officer will review the situation to determine if there is any threat of harm to public health, federal funds, and equipment, or the integrity of the federally supported research process. In the event of such a threat, the Research Integrity Officer will, in consultation with other institutional officials and appropriate federal agencies, take appropriate interim action to protect against any such threat. Interim action may include, for example, additional monitoring of the research process and the handling of federal funds and equipment, reassignment of personnel or of responsibility for handling federal funds and equipment, additional review of research data and results or delaying publication.

The Research Integrity Officer shall, at any time during a research misconduct proceeding, notify appropriate federal officials of any facts that may be relevant to protect public health, federal funds and equipment, and the integrity of the federally supported research process, and immediately notify the appropriate federal agencies if he/she has reason to believe that any of the following conditions exist: (1) health or safety of the public is at risk, including an immediate need to protect human or animal subjects; (2) federal resources or interests are threatened; (3) research activities should be suspended; (4) there is a reasonable indication of possible violations of civil or criminal law; (5) federal action may be needed to protect the interests of those involved in the research misconduct proceeding; (6) UPR believes the research misconduct proceeding may be made public prematurely so that the agency may take appropriate steps to safeguard evidence and protect the rights of those involved; or (7) the research community or public should be informed.

In any case, the Research Integrity Officer may order interim measures to protect federal or other funding sponsors and to insure that the purposes of the research activity and the financial assistance are carried out.

V. Conducting the Inquiry

A. Assessment of Allegations

As soon as practicable after receiving an allegation of research misconduct, the Research Integrity Officer will assess the allegation to determine whether it (1) falls within the definition of research misconduct in this policy and applicable federal regulations, including, as applicable 42 C.F.R. § 93.103, and (2) is sufficiently credible and specific so that potential evidence of research misconduct may be identified. If both of these criteria are met, an inquiry will be conducted.

In conducting the assessment, the Research Integrity Officer 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.

B. Notice to Respondent

At the time of or before beginning an inquiry, the Research Integrity Officer shall make a good faith effort to notify the respondent in writing, if the respondent is known, of UPR's decision to conduct an inquiry. If the inquiry subsequently identifies additional respondents, they shall be notified in writing.

C. Sequestration of the Research Records

On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the Research Integrity Officer will 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. 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. In appropriate cases, the Research Integrity Officer may consult with ORI, NSF, or other appropriate federal agencies for advice and assistance in this regard.

D. Appointment of the Inquiry Committee

The Research Integrity Officer will recommend to the Dean of Academic Affairs or, as applicable, the Dean of Graduate Studies and Research ("Dean") possible members of the ad-hoc inquiry committee. The inquiry committee shall consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest in relation to the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation and conduct the inquiry. The inquiry committee will normally comprise three individuals, although where circumstances warrant it, the Research Integrity Officer and the Dean may determine that a smaller or larger committee, or a single inquiry official, is appropriate.

The respondent shall have an opportunity to object to a proposed member based upon a personal, professional, or financial conflict of interest, by submitting objections to the Research Integrity Officer no more than 10 days following notification regarding the committee membership. The Research Integrity Officer makes the final determination as to whether a conflict exists.

E. Charge to the Inquiry Committee

The Research Integrity Officer will prepare a charge to the inquiry committee that: (1) sets forth the time for completion of the inquiry; (2) describes the allegations and any related issues identified during the allegation assessment; (3) states that the purpose of the inquiry is to conduct an initial review of the evidence to determine whether an investigation is warranted, not to determine whether research misconduct definitely occurred or who was responsible; (4) states the criteria for determining that an investigation is warranted; and (5) 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 Section VI.A. of this policy.

The Research Integrity Officer may choose to meet with the inquiry committee to review the charge, discuss the allegations, discuss 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 Research Integrity Officer or his or her designee will be available throughout the inquiry to advise the committee as needed.

F. Inquiry Process

The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. The purpose of the inquiry is not to decide whether misconduct definitely occurred, determine who committed the research misconduct, or conduct exhaustive interviews and analysis.

After its evaluation of the evidence, the inquiry committee will consult with the Research Integrity Officer and decide whether to recommend that an investigation is warranted. An investigation is warranted if: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct in this policy and (2) preliminary information-gathering and preliminary fact-finding from the inquiry indicate that the allegation may have substance.

If a legally sufficient admission of research misconduct is made by the respondent, misconduct may be determined at or before the inquiry stage if all relevant issues are resolved. In that case, the Research Integrity Officer, in consultation with other appropriate institutional officials, shall promptly consult with any appropriate federal agencies to determine the next steps that should be taken.

G. Time for Completion

The inquiry, including preparation of the final inquiry report and the decision of the Chancellor or the Chancellor's designee on whether an investigation is warranted, must be completed within 60 days of its initiation unless the Research Integrity Officer determines that circumstances clearly warrant a longer period. If the inquiry takes longer than 60 days, and the Research Integrity Officer approves an extension, the inquiry record shall include documentation of the reasons for exceeding the 60-day period.[3]

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 PHS, NSF, or other federal agency support, including, for example, grant numbers, grant applications, contracts and publications listing such support; (4) the basis for recommending or not recommending that the allegations warrant

[3] In cases involving NSF jurisdiction, NSF should be notified if the inquiry exceeds 90 days.

an investigation; and (5) any comments on the draft report by the respondent or the complainant.

Institutional counsel should review the report for legal sufficiency. Modifications should be made as appropriate in consultation with the Research Integrity Officer and the inquiry committee. The inquiry report should also include: the names and titles of the committee members and experts who conducted the inquiry; a summary of the inquiry process used; a list of the research records reviewed; summaries of any interviews; and whether any other actions should be taken if an investigation is not recommended.

B. Notification to the Respondent and Opportunity to Comment

The Research Integrity Officer shall provide the respondent with an opportunity to review and comment on the inquiry report. Any comments received from the respondent will be attached to the 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 Chancellor or the Chancellor's designee.

C. Institutional Decision and Notification

1. *Decision by the Chancellor or Designee*

The Research Integrity Officer will transmit the final inquiry report and any comments to the Chancellor or the Chancellor's designee, who will determine in writing whether an investigation is warranted. The inquiry is completed when the Chancellor or designee makes this determination.

2. *Notification to Respondent*

The Research Integrity Officer shall notify the respondent whether the inquiry found that an investigation is warranted. The notice must include a copy of the inquiry report and include a copy of or refer to this policy and 42 C.F.R Part 93 or other applicable federal research misconduct policy.

3. *Notification to Complainant*

The Research Integrity Officer may notify the complainant whether the inquiry found an investigation to be warranted and may provide relevant portions of the inquiry report to the complainant for comment within 10 days. A confidentiality agreement should be a condition for access to the report.

4. *Notification to Applicable Federal Agency*

Within 30 days of the Chancellor's or designee's decision that an investigation is warranted, the Research Integrity Officer will provide ORI or other applicable federal agency with the Chancellor's or designee's written decision and a copy of the inquiry report.[4] The Research Integrity Officer will also notify institutional officials who need to know of the Chancellor or designee's decision.

5. *Documentation of Decision Not to Investigate*

If the Chancellor or the Chancellor's designee decides that an investigation is not warranted, the Research Integrity Officer shall secure and maintain for seven years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by supporting federal agencies of the reasons why an investigation was not conducted. These documents shall be provided to ORI or other authorized federal personnel upon request.

VII. Conducting the Investigation

A. Initiation and Purpose

The investigation shall begin within 30 days after the Chancellor's or the Chancellor's designee's determination 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 will be set forth in an investigation report.

B. Notifying Federal Officials and Respondent

On or before the date on which the investigation begins, the Research Integrity Officer shall notify the ORI Director or other appropriate federal officials of the decision to begin the investigation and provide such officials with a copy of the inquiry report. Within a reasonable time after determining that an investigation is warranted, but before the investigation begins, the Research Integrity Officer shall notify the respondent in writing of the allegations to be investigated. If allegations not addressed during the inquiry or in the initial notice of the investigation are pursued, the Research Integrity

[4] In cases involving NSF jurisdiction, the NSF Office of Inspector General must be notified immediately.

Officer shall give the respondent reasonably timely written notice of any such new allegations.

C. Sequestration of the Research Records

Before or at the time UPR notifies the respondent, the Research Integrity Officer will 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. 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, in evidentiary value, to the instruments. If additional items become known or relevant to the investigation, the Research Integrity Officer will take custody of those records if possible.

D. Appointment of the Investigation Committee

As soon as practicable after beginning the investigation, the Chancellor will name an investigation committee, which will conduct the investigation. The investigation committee shall consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest in relation to 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. When necessary to secure expertise or to avoid conflicts of interest, the Research Integrity Officer may select committee members from outside UPR.

The respondent will have the opportunity to object to a proposed member based upon a personal, professional, or financial conflict of interest, within 10 days of receiving notice regarding the committee membership. The Research Integrity Officer will make the final determination of whether a conflict exists.

E. Charge to the Investigation Committee

The Research Integrity Officer will define the subject matter of the investigation in a written charge to the investigation committee that: (1) describes the allegations and related issues identified during the inquiry; (2) identifies the respondent; (3) informs the investigation committee that it must conduct the investigation as prescribed in this policy; (4) defines research misconduct; (5) informs the investigation 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 and who was responsible; and (6) informs the investigation committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of Section VIII.A.

The Research Integrity Officer may choose to meet with the investigation committee to review the charge, the inquiry report, and 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 shall be provided with a copy of this policy and 42 C.F.R. Part 93, if applicable. The Research Integrity Officer or designee will ordinarily be available throughout the investigation to advise the investigation committee as needed.

F. Investigation Process

The investigation committee and the Research Integrity Officer will:

(1) 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;

(2) Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical, including participation of persons with appropriate scientific expertise who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry or investigation;

(3) 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

(4) 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.

G. Standard for Making a Finding of Research Misconduct

In order to make a finding of research misconduct, the investigation committee must find by a preponderance of the evidence that: (1) research misconduct occurred, as defined in this policy or applicable federal agency policy; (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.

UPR has the burden of proof for making a finding of research misconduct. The respondent has the burden of going forward with and the burden of proving, by a preponderance of the evidence, any and all affirmative defenses he or she raises during the investigation.

H. Time for Completion

The investigation shall ordinarily be completed within 120 days of its initiation, including conducting the investigation, preparing the report of findings, providing the draft report for comment, and sending the final report to ORI, NSF, or other federal agency, if applicable. However, if the Research Integrity Officer determines that the investigation will not be completed within the 120-day period, or as provided in the applicable agency's regulations, he/she will submit to the applicable agency a written request for an extension setting forth the reasons for the delay.

VIII. The Investigation Report

A. Elements of the Investigation Report

The investigation committee and the Research Integrity Officer are responsible for preparing a written investigation report which shall: (1) describe the nature of the allegation of research misconduct; (2) describe and document any PHS support or other federal or private funding, including, for example, any grant numbers, grant applications, contracts, and publications listing any such support; (3) describe the specific allegations of research misconduct considered in the investigation; (4) include a copy of this policy; and (5) identify and summarize the research records and evidence reviewed and identify any evidence taken into custody but not reviewed.

The report must also include a statement of findings for each separate allegation of research misconduct identified during the investigation. The statement of findings must provide a decision as to whether misconduct did or did not occur, and if so --

(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 the 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 PHS support or other federal funding;

(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 PHS or non-PHS federal agencies.

B. Comments on the Draft Investigation Report and Access to Evidence

1. *Respondent*

The Research Integrity Officer shall provide the respondent with a copy of the draft investigation report for comment and rebuttal, and will provide the respondent, concurrently, with a copy of, or supervised access to, the evidence on which the report is based. The respondent will be allowed 30 days to review the draft report and submit comments to the Research Integrity Officer. The respondent's comments will be taken into consideration when preparing the final investigation report and will be attached to the final report.

2. *Complainant*

The Research Integrity Office may provide the complainant a copy of the draft investigation report, or relevant portions of it, for comment. If provided with a copy of the report, the complainant's comments must be submitted within 30 days of the date on which he/she received the draft report and the comments must be included and considered in the final report.

3. *Confidentiality*

In distributing the draft report, or portions thereof, to the respondent or complainant, the Research Integrity Officer 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 Research Integrity Officer may require that the recipient sign a confidentiality agreement.

C. Decision by the Chancellor

The Research Integrity Officer will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent's and, in appropriate cases, the complainant's comments are included and considered. The Research Integrity Officer will transmit the final investigation report to the Chancellor or the Chancellor's designee, who will determine in writing: (1) whether UPR 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 the Chancellor's or designee's determination varies from the findings of the investigation committee, the Chancellor or designee 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 Chancellor or designee 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 Research Integrity Officer will normally notify both the respondent and the complainant in writing. After ORI and other applicable federal agencies are notified, the Chancellor 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 Research Integrity Officer is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

D. Appeals

The respondent has the right to appeal the findings of the Chancellor or the Chancellor's designee regarding research misconduct; however, any appeal must be in compliance with Certification 44 (1984-1985), as amended by Certification 94 (1989-1990), of the Council of Higher Education/Board of Trustees, as applicable. If the result of the appeal could result in a reversal or modification of the findings of research misconduct in the investigation report, the appeal must be completed within 120 days from its filing, unless the Research Integrity Officer finds good cause for an extension. In applicable cases, the Research Integrity Officer will make a written request to ORI for an extension that explains the need for the extension.

E. Notice to Applicable Federal Agencies of Institutional Findings and Actions

Unless an extension has been granted, within 120 days of beginning the investigation or within the 120 day period for completion of an appeal, the Research Integrity Officer shall submit to ORI or other applicable agency a copy of the final investigation report with all attachments and any appeal; a statement of whether UPR accepts the findings of the investigation report or the outcome of the appeal; a statement of whether UPR found misconduct and, if so, who committed the misconduct; and a description of any pending or completed administrative actions against the respondent.

F. Maintaining Records for Review by Federal Agencies

The Research Integrity Officer shall maintain, and upon request, provide to ORI, or other applicable federal agencies, records of the research misconduct proceedings, including: (1) records secured by UPR for the inquiry and investigation; (2) documentation of the determination of irrelevant or duplicate records; (3) the inquiry report and final documents produced in the course of preparing that report, including the documentation of any decision not to investigate; (4) the investigation report and all records in support of that report, including the recordings and transcriptions of each interview conducted pursuant to this policy; and (5) the complete record of any institutional appeal.

Unless custody has been transferred to the applicable federal agency or the agency has advised UPR, in writing, that the records no longer need to be retained, these records shall be maintained in a secure manner for seven years after completion of the proceeding or the completion of any federal agency proceeding involving the research misconduct allegation.

The Research Integrity Officer is also responsible for providing any information, documentation, research records, evidence, or clarification requested by ORI or other applicable federal agency to carry out its review of an allegation of research misconduct or of UPR's handling of such an allegation.

IX. Completion of Cases and Reporting Premature Closures to Applicable Federal Agencies

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The Research Integrity Officer shall notify ORI or other applicable federal agency in advance if there are plans to close a case at the inquiry, investigation, or appeal stage on the basis that the 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 as specified under Section VIII.A. and E. of this policy.

X. Institutional Administrative Actions

If the Chancellor or the Chancellor's designee determines that a finding of research misconduct is substantiated, the following sanctions may be adopted:

(a) Restitution of funds to the sponsor, as appropriate;

(b) Withdrawal or correction of all pending or published abstracts and papers arising from the research in which research misconduct was found;

(c) Notification of institutions and sponsoring agencies with which the individual has been affiliated if there is reason to believe that the validity of previous research may be questionable;

(d) Prohibition to act as a principal investigator for a period usually not exceeding five years;

(e) Special monitoring of future research activities; and/or

(f) Disciplinary or other administrative action, up to and including termination of employment, in keeping with personnel and/or student regulations in proportion to the magnitude of the misconduct.

The Chancellor may be obliged to notify the Puerto Rico Office of Governmental Ethics, the Office of the Comptroller of the Commonwealth of Puerto Rico, or the Puerto Rico Department of Justice. None of these sanctions limits the authority of the funding sponsor to impose its own sanctions.

XI. Other Considerations

A. Termination or Resignation Prior to Completing the 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 UPR's responsibilities under 42 C.F.R. Part 93 or other federal agency regulations, if applicable.

If the respondent, without admitting to the misconduct, elects to resign his or her position after UPR 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 or termination, the Research Integrity Officer and any inquiry committee 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 proceeding.

B. Protecting the Respondent

Respondents may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice. Respondent may be accompanied by counsel or a personal adviser at interviews and meetings on the case, but the lawyer or personal advisor's role will be limited to counseling the respondent and the respondent will be responsible for answering all questions.

As requested and as appropriate, the Research Integrity Officer 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. Depending on the particular circumstances and the views of the respondent, the Research Integrity Officer 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 Chancellor.

C. Protecting the Complainant, 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 Research Integrity Officer.

During the research misconduct proceeding and upon its completion, regardless of whether or not UPR or a federal agency determines that research misconduct occurred, the Research Integrity Officer will 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.

D. Allegations Not Made in Good Faith

If relevant, the Chancellor 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 Chancellor determines that the complainant knowingly made a false allegation of research misconduct, the complaint will be subject to Section 35.2.16 of the 2002 UPR General Regulations, as amended in 2005. Student cases will be dealt with through the discipline boards of their respective campuses.