

## **Integrity in Research Policy**

Outlines Chapman University's general policy and principles for adhering to the highest standards of intellectual honesty, and outlines the procedures for handling allegations of misconduct.

### **I. INTRODUCTION**

#### **A. Statement of Philosophy**

Integrity in research is central to the academic enterprise. All individuals engaged in research at Chapman University are responsible for adhering to the highest standards of intellectual honesty and integrity. Faculty and other supervisors of research activities have a responsibility to set an example and to create an environment which encourages absolute intellectual integrity. Open communication, an emphasis on quality of research and publications, appropriate supervision of personnel, concern for the health and safety of human and animal subjects, maintenance of accurate and detailed records of research procedures and results, and suitable assignment of credit and responsibility for research and publications are all essential for fostering intellectual honesty and integrity in research.

#### **B. Environment of Integrity**

Chapman University is committed to promoting a climate of integrity in research. To this end, the University encourages the reporting of any incident of detected or perceived misconduct in research and will take prompt and deliberate action to investigate and address allegations of misconduct, based on the following principles:

- Institutional and academic responsibility for self-regulation;
- Mechanisms to protect the rights of the accused, the interests of those making an accusation, and the public interest;
- The highest degree of confidentiality compatible with an effective response and responsible reporting requirements; and
- Precautions against conflicts of interest

#### **C. Scope of the Policy**

This Policy applies to acts or practices that deviate significantly from those commonly accepted within the scholarly or scientific communities for proposing, conducting, reporting, or performing research. Such acts and practices include but are not limited to: Dishonesty in Presentation and Publication, Deliberate and Serious Violation of Regulation, Fabrication, Falsification, Failure to Report Unethical Research Activities, and Plagiarism. This Policy does not apply to unintentional errors or honest differences in the interpretation or judgment of data, nor does this Policy and its procedures apply to authorship or collaboration disputes.

This Policy and the associated procedures apply to all research activities conducted under the auspices of Chapman University, whether or not they are externally funded. This Policy applies to any individual holding an appointment from, or affiliated with Chapman University, such as faculty members, post-

doctoral fellows, trainees, technicians, guest researchers, staff members, graduate students and undergraduate students, nonemployees, regardless of where the research is or was performed or whether they receive pay from the University.

It is the responsibility of individuals applying for research funding or engaged in research at Chapman University to inform themselves of Chapman's policies relating to research and to inform themselves of the policies and procedures of the agencies funding his or her activities. Copies of relevant policies should be available on the website of the Office of Research and Sponsored Programs Administration and on the website of the Office of Human Resources. Each new researcher should be referred to relevant policy statements. However, all persons engaged in research at Chapman University are ultimately responsible for conducting their activities in accordance with all applicable external and internal rules and regulations.

#### **D. Statute of Limitations**

This Policy and its procedures apply only to allegations of misconduct reported to an institutional official within five (5) years of the alleged act, except in the following cases:

- Where the research involved in the allegation is funded by an external agency that stipulates a longer statute of limitations, the longer statute of limitation shall pertain. For instance, the statute of limitations for research funded by the Public Health Service (PHS) is six (6) years. All persons engaged in funded research at Chapman University are responsible for knowing the limitation period mandated by their funding agency.
- Where the research involved in the allegation has been cited or republished by the individual against whom the allegation has been made, the five-year limitation period begins at the time of the last citation or publication.
- Where the research involved in the allegation poses a threat to public health or safety, there is no statute of limitations.

#### **E. Revisions to the Policy**

The University's Compliance Committee shall assume responsibility for updating this Policy. All substantive changes to the Policy are subject to approval by the Board of Trustees, except when such changes are mandated by federal funding agencies or applicable law.

## **II. DEFINITIONS**

**Administrator:** The person who is apprised of the allegation of misconduct and is responsible for conducting an Initial Assessment and determining whether a Preliminary Inquiry and a Formal Investigation are warranted.

**Complainant:** The individual bringing forth an allegation of misconduct. It is assumed that the Complainant makes the allegation in Good Faith, even if the allegation is proven to be a misunderstanding, misinterpretation or miscalculation of the facts, and that no misconduct was committed.

**Complaint Reviewer:** The individual(s) charged with conducting a Preliminary Inquiry of an allegation of misconduct. The Complaint Reviewer is appointed by the Administrator.

**Dishonesty in Presentation and Publication:** Knowingly presenting material or publishing articles that will mislead listeners or readers, e.g., misrepresenting data (particularly its originality); adding the names of other authors without permission or authors who have not earned the credit; exerting pressure to join the list of authors when the level of contribution did not warrant inclusion; citing unpublished papers or scholarly work without permission, or including inadequate footnote or endnote attributions so that readers cannot tell who produced which data; publishing the same material more than once without identification of prior publication; serving as a coauthor of a research paper or article without reviewing the material to be published.

**Deliberate and Serious Violation of Regulation:** Deliberate or reckless failure to adhere to safe research practices or to receive the approval required for work under research regulations of federal, state, local, or university agencies; deliberate misuse of research funds.

**Evidence:** Any document, tangible item, or testimony offered or obtained that tends to prove or disprove an alleged fact.

**Fabrication:** Making up data or results and recording or reporting them.

**Falsification:** 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.

**Failure to Report Unethical Research Practices:** Covering up or otherwise failing to report misconduct in research as set forth in this Policy.

**Formal Investigation:** The formal examination and evaluation of relevant evidence to determine if misconduct in research has taken place, to evaluate its seriousness, and, if possible, to determine responsibility. A Formal Investigation may also be necessary to determine the extent of any adverse effects resulting from the misconduct and any necessary remedial or follow-up actions (e.g., publications requiring retraction). The Investigation Committee is responsible for conducting the Formal Investigation.

**Good Faith:** As applied to a Complainant or witness, Good Faith means having a belief in the truth of one's allegations 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 testimony is not in Good Faith if made with knowing or reckless disregard for information that would negate the allegation or testimony. Good Faith, as applied to a Complaint Reviewer or Investigation Committee member, means impartially carrying out the duties assigned for the purpose of helping an institution meet its responsibilities under this part. Complaint Reviewers or Investigation Committee members do not act in Good Faith if they allow their actions or findings to be influenced by personal, professional, or financial conflicts of interest.

**Investigation Committee:** The group of individuals appointed by the Administrator to conduct a Formal Investigation of an allegation of misconduct.

**Initial Assessment:** The review of an allegation of misconduct to determine whether a Preliminary Inquiry is warranted. The Administrator is responsible for conducting the Initial Assessment.

**Legal Violations:** Stealing or destroying the property of others (e.g., research, research papers, supplies, equipment, or products); spoliation; deliberate misuse of research funds.

**Misconduct in Research:** Any act or practice that deviates significantly from those that are commonly accepted within the scholarly or scientific communities for proposing, conducting, or reporting research. Misconduct in research includes, but is not limited to, Dishonesty in Presentation and Publication, Deliberate and Serious Violation of Regulation, Fabrication, Falsification, Failure to Report Unethical Research Activities, and Plagiarism. Misconduct in research does not include unintentional error or honest differences in the interpretation or judgment of data.

**Plagiarism:** Taking credit for someone else's work and ideas, stealing others' results or methods, copying the writing of others without acknowledgment, or otherwise taking credit falsely. This may also include taking or releasing the data of others which were given in the expectation of confidentiality (e.g., appropriating ideas from submitted grant or contract proposals, or manuscripts for publication when one is a reviewer for granting agencies or journals).

**Preliminary Inquiry:** Information gathering and initial fact-finding to determine whether an allegation of misconduct warrants a Formal Investigation. A Preliminary Inquiry is not intended to determine conclusively if wrongdoing has occurred, or to determine guilt or innocence. The Complaint Reviewer is responsible for conducting the Preliminary Inquiry.

**Preponderance of the Evidence:** Proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

**Research:** A systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) by establishing, discovering, developing, elucidating or confirming information about, or the underlying mechanism relating to, matters to be studied. : A systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) by establishing, discovering, developing, elucidating or confirming information about, or the underlying mechanism relating to, matters to be studied.

**Research Records:** Record of data or results that embody the facts resulting from research activity, including but not limited to: research proposals; laboratory records, including both physical and electronic data; computers and scientific equipment used; progress reports; abstracts; theses; oral presentations; internal reports; journal articles and the like. This also includes documents and materials of research fact provided by the Respondent at any point during the Preliminary Inquiry and Formal Investigation. It does not include notations, interpretations or analyses performed by the Complainant in

support of his/her allegation of misconduct.

**Respondent:** The individual accused of misconduct in research.

**Retaliation:** Adverse actions of any kind taken against Complainants, Respondents, witnesses, Administrators, Complaint Reviewers, or Investigation Committee members because of their status as Complainant, Respondent, witness, Administrator, Complaint Reviewer, or Investigation Committee member. This definition does not include University personnel actions that may be taken against individuals to protect the integrity of the research and safety of any research subjects or research participants.

**Spoliation:** The destruction, mutilation or alteration of records or materials unfavorable to the party causing the spoliation.

### **III. GENERAL POLICIES AND PRINCIPLES**

#### **A. Responsibility to Report Misconduct**

It is the responsibility of University faculty, staff and students to report any incident of misconduct in Good Faith and in accordance with the definitions and terms of this Policy. Individuals who are unsure whether a suspected incident constitutes misconduct in research are encouraged to discuss the matter with the Vice President of Research, which may include discussing it anonymously and/or hypothetically. Allegations of misconduct originating from any source (student, staff, faculty, or an individual outside of the Chapman University community) shall be pursued in a timely manner and in accordance with this Policy.

#### **B. Protecting Complainants**

The identity of the individual filing the allegation of misconduct ("Complainant") will be protected, to the maximum extent possible, consistent with the rights of the Respondent in accordance with University policy. If the Complainant has directly observed unethical behavior, he or she should be prepared to testify to that observation if it is necessary to establish that such behavior has occurred. If the initial report of misconduct is oral, it must be put in written form before a Preliminary Inquiry can proceed.

#### **C. Discouraging Negative Actions**

The University has zero tolerance for retaliation. Respondents are free to defend themselves against allegations without fear of reprisal for such defense. Malicious allegations on the part of a Complainant will be treated as separate violations of this Policy, incurring appropriate disciplinary action. If it is determined that the allegation was made frivolously, vindictively, maliciously, or with knowledge that the allegation was not true, serious consequences may occur for the Complainant, including dismissal/expulsion, if an employee, student, or faculty member, and/or civil action. Retaliation on the part of the Respondent shall itself be treated as a violation of this Policy, incurring appropriate disciplinary action.

#### **D. Confidentiality**

The University expects all individuals involved in an allegation of misconduct to maintain the highest

degree of confidentiality compatible with an effective response and responsible reporting requirements. Administrators should use written confidentiality agreements or other mechanism to ensure that appropriate confidentiality is maintained.<sup>1</sup>

**E. Notification to Funding Agencies**

Upon receiving an allegation of misconduct that involves externally funded research, the University shall make timely notification to the funding agency, as required by that agency. For instance, the University shall notify the Office of Research Integrity (ORI) whenever a credible allegation involves research funded by the Public Health Service (PHS). The Vice President of Research, shall be responsible for notifying external funding agencies.

**F. Standard of Proof**

The standard of proof used to evaluate an allegation of misconduct and make findings in the Initial Assessment, Preliminary Inquiry, and Formal Investigation phases is Preponderance of the Evidence. The standard of proof used in the Final Decision phase is Preponderance of the Evidence. The burden of proof for making a finding of misconduct in research rests with the University or with the integrity oversight arm of the funding agency. The individual accused of misconduct ("Respondent") has the burden of proof for all affirmative defenses.

**IV. SPECIFIC PROCEDURES FOR HANDLING ALLEGATIONS OF MISCONDUCT**

**A. Overview**

An allegation of misconduct is considered in phases. An allegation that is found not to warrant further response in any one of these phases does not proceed to the next phase. The phases through which an allegation may pass are, in the order in which they occur:

- 1. The Initial Assessment, performed by the Administrator;
- 2. The Preliminary Inquiry, performed by the Complaint Reviewer;
- 3. The Formal Investigation, performed by the Investigation Committee; and
- 4. The Final Decision, performed by the Vice President of Research (in most cases).

**B. Reporting Misconduct**

Allegations of misconduct shall be reported to various institutional officials, depending on the institutional status of the Respondent. The institutional official shall serve as the Administrator of the allegation, as defined in this Policy. In the case of a potential conflict of interest between the Administrator and the Respondent, or in the case of uncertainty as to the appropriate Administrator (e.g., a Respondent with a dual appointment), the allegation will be referred to the Vice President of Research, who may serve as the Administrator or may appoint some other person to serve as the Administrator for purposes of the complaint.

Respondent	Administrator
Student	Chair of Academic Integrity Committee
Staff member	Chief Operating Officer

Faculty member	Unit Dean
Associated researcher	Unit Dean
Unit Dean	Vice President of Research
Direct reports to the Provost	Vice President of Research
Direct reports to the President	Vice President of Research

In most instances, the Vice President of Research is responsible for ruling on potential conflicts of interest, notifying external funding agencies, and rendering a final decision following a Formal Investigation.

## **V. THE INITIAL ASSESSMENT**

### **A. Purpose**

Upon receiving an allegation of misconduct, the appropriate Administrator will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of misconduct may be identified, and whether the allegation falls within the definition of misconduct as outlined in this Policy.

### **B. Timeline**

The Initial Assessment should be concluded within seven (7) calendar days of the day the Administrator receives the allegation.

### **C. Notification**

Upon receiving an allegation of misconduct, the Administrator must make a Good Faith effort to notify the Respondent in writing that an allegation of misconduct has been made, if the Respondent is known. This notification shall include a brief but specific description of the complaint and shall refer the Respondent to this Policy. If the allegation involves research funded by external agencies, the Administrator shall also notify the Vice President of Research.

### **D. Examination of Evidence**

On the same day the Administrator notifies the Respondent of the allegation, the Administrator shall obtain custody of, inventory, and sequester all research records and evidence needed to conduct the Initial Assessment. In conducting the Initial Assessment, the Administrator 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 misconduct may be identified.

### **E. Outcome of the Initial Assessment**

If the Administrator finds that the complaint (1) does not fall within the scope of misconduct under this Policy, or (2) is not sufficiently credible and specific so that potential evidence of misconduct may be identified, the Administrator shall inform the Respondent, the Complainant, and the Vice President of Research (in the case of allegations involving external funds) that the allegation will not be investigated further and shall prepare a memorandum to be kept in the Administrator's file.

If the Administrator finds that the complaint (1) falls within the scope of misconduct under this Policy, and (2) is sufficiently credible and specific so that potential evidence of misconduct may be identified, the Administrator shall discuss the Preliminary Inquiry and Formal Investigation procedures with the Complainant, where possible. If, pursuant to this discussion, the Administrator determines that the allegation does not concern misconduct within the scope this Policy, or is not sufficiently credible and specific so that potential evidence of misconduct may be identified (e.g., the Complainant is unable to provide information of a specific incident or act that would constitute misconduct, or the Complainant is unprepared to testify to the misconduct and such a testimony would constitute the only evidence of the misconduct), the Administrator shall inform the Respondent, the Complainant, and the Vice President of Research (in the case of allegations involving external funds) that the allegation will not be investigated further and shall prepare a memorandum to be kept in the Administrator's file.

If, pursuant to the discussion with the Complainant, the Administrator is confirmed in his or her determination of the merit of the allegation, the Administrator shall notify the Respondent and initiate a Preliminary Inquiry. If the Complainant withdraws or otherwise fails to support the allegation (e.g., choosing not to proffer a written allegation) but the Administrator believes there is sufficient cause to pursue the allegation, the Administrator may initiate a Preliminary Inquiry; in such a case there is no Complainant for the purposes of this Policy.

## **F. Student Respondents**

If the Administrator determines that an allegation of misconduct against a student Respondent warrants a Preliminary Inquiry yet also determines that the alleged misconduct: (1) was not supported by external funds; and (2) was not published or presented for external audiences, then the Administrator pursues the complaint in accordance with the procedures described in the Chapman University Academic Integrity Policy.

If the Administrator determines that an allegation of misconduct against a student Respondent warrants a Preliminary Inquiry yet also determines that the alleged misconduct: (1) was supported by external funds; or (2) was published or presented for external audiences, then the Administrator refers the complaint to the Unit Dean who supervises the research in which the misconduct allegedly occurred. The Unit Dean serves as the Administrator from this point forward.

## **VI. THE PRELIMINARY INQUIRY**

### **A. Purpose**

The Preliminary Inquiry ("Inquiry") is the first stage of the formal process for handling allegations of misconduct. The purpose of an Inquiry is to conduct an initial review of the evidence to determine whether a Formal Investigation is warranted. Therefore, an Inquiry does not require a full review of all the evidence related to the allegation.<sup>2</sup>

### **B. Timeline**

A Preliminary Inquiry is initiated when the Administrator appoints a Complaint Reviewer. The Preliminary Inquiry, including the submission of a written report, shall normally be completed within sixty



(60) calendar days of the date the Complaint Reviewer is appointed. If the Administrator determines that circumstances warrant a longer period of time, the Administrator may grant an extension. In such a case, the record of the Inquiry shall include documentation of the reasons for exceeding the sixty day period.<sup>3</sup>

### **C. Complaint Reviewer**

The Inquiry is conducted by the "Complaint Reviewer," who may be the Administrator or may be an individual or individuals appointed by the Administrator to serve in this capacity. In determining who shall serve as Complaint Reviewer, the Administrator should consider the seriousness of the allegations, the need to complete the Inquiry in a timely fashion, the availability of personnel to conduct the Inquiry, and whether the nature of the complaint requires that the Complaint Reviewer have special expertise in order to assess the allegations. The Administrator should not appoint a Complaint Reviewer who has a potential conflict of interest or for a substantial reason might be unable to make an impartial evaluation of the subject of the Inquiry.

If the Administrator does not serve as the Complaint Reviewer, the Administrator shall provide the Complaint Reviewer with a charge letter at the time of appointment. This letter will:

- Set forth the time for completion of the Inquiry;
- Describe the allegations and any related issues identified during the allegation assessment;
- State that the purpose of the Inquiry is to conduct an initial review of the evidence, including the testimony of the Respondent, Complainant and key witnesses, to determine whether an Investigation is warranted, but not to determine whether misconduct definitely occurred or who was responsible;
- State that the Complaint Reviewer is responsible for preparing or directing the preparation of a written report of the Inquiry that meets the requirements of this Policy; and
- State that the Administrator will call for a Formal Investigation if it is determined: (1) that there is a reasonable basis for concluding that one or more allegation falls within the definition of misconduct, and (2) that the allegation may have substance, based on the Complaint Reviewer's review during the Inquiry.

### **D. Notification**

At the time of or before beginning the Inquiry, the Complaint Reviewer must make a Good Faith effort to notify the Respondent in writing that an allegation of misconduct has been made, if the Respondent is known. This notification shall include a brief but specific description of the complaint, the name(s) of the Complaint Reviewer(s), the purpose of the Inquiry, and a copy of this Policy. If the Inquiry subsequently identifies additional Respondents, they must also be notified in writing.<sup>4</sup>

Respondents should be given the opportunity to admit that misconduct occurred and that they committed the misconduct. Once such an admission has been made, the University may terminate its review of an allegation, provided the University's acceptance of the admission and any proposed settlement is approved by the appropriate funding agencies (if any).<sup>5</sup>

The Complaint Reviewer shall immediately advise the Vice President of Research if any of the following

conditions exist:

- There is an immediate need to suspend research activities;
- There is an immediate need to protect Federal funds or equipment;
- There is an immediate health hazard;
- There is an immediate need to protect the interests of the Complainant(s) or of the Respondent, as well as principal investigators, co-investigators, co-authors, and associates, if any;
- There is a likelihood that the alleged incident is going to be reported publicly;
- There is a reasonable indication of possible criminal violation as confirmed by the University's counsel. In that instance, the Vice President of Research must inform the funding agency within 24 hours of obtaining that information; or
- The health or safety of human or animal subjects is at risk or has been compromised, in which case the Vice President of Research shall promptly notify the Chair of the Chapman University Institutional Review Board (CUIRB) or Chair of the Chapman University Institutional Animal Care and User Committee.<sup>6</sup>

The Vice President of Research shall be responsible for notifying any affected funding agencies, as required, during the Preliminary Inquiry stage.

#### **E. Conflict of Interest**

If the Respondent believes that the Complaint Reviewer has a potential conflict of interest or for a substantial reason might be unable to make an impartial evaluation of the Respondent, the Respondent shall notify the Vice President of Research in writing of the specific basis for such a claim within three (3) calendar days of the Respondent's receipt of the Complaint Reviewer's notification. The Vice President of Research shall consider any information provided by the Respondent and any other information deemed relevant by the Vice President of Research, and shall notify the Respondent in writing of the outcome of the Respondent's challenge, which shall be within the Vice President of Research's sound discretion.

#### **F. Securing Evidence**

On the date on which the Respondent is notified, the Complaint Reviewer must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the Inquiry. The Complaint Reviewer shall inventory the records and evidence and sequester them in a secure manner. In the case that the research records or evidence encompass equipment or 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. Where appropriate, the Respondent shall be given copies of, or reasonable, supervised access to the research records.<sup>7</sup>

During the Inquiry, the Respondent shall be expected to provide any evidence requested by the Complaint Reviewer as quickly as possible, and to respond to the complaint and provide other evidence on his or her own behalf within thirty (30) calendar days of receiving notice of the Inquiry.

#### **G. Examination of Evidence**

As a matter of good practice, the Complaint Reviewer should interview the Complainant and give him or her a transcript or recording of the interview for correction.<sup>8</sup> In addition, the Complaint Reviewer will normally interview the Respondent and key witnesses as well as examine relevant research records and materials. The Complaint Reviewer should be circumspect during the Inquiry, contacting only those individuals reasonably required and apprising them of the need for confidentiality. No inquiries outside of the University should be made at this juncture unless the Complaint Reviewer determines that such Inquiry is reasonably necessary. The scope of the Inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining who committed the misconduct, or conducting exhaustive interviews and analyses. (However, if a legally sufficient admission of misconduct is made by the Respondent, misconduct may be determined at the Inquiry stage if all relevant issues are resolved.) All reasonable efforts shall be made by the Complaint Reviewer to preserve the confidentiality of all aspects of the Inquiry.

## **H. Record Keeping**

The Complaint Reviewer should keep detailed records of the Inquiry, including contacts with the Respondent, interviews, telephone conversations, and meetings. If the Complaint Reviewer determines to use media recordings for record-keeping purposes, such recordings shall only be made in compliance with applicable law, which generally requires the consent of the recorded parties. Records and data, or copies thereof, essential to the Inquiry must be kept in a secure location under the control of the Vice Provost of Faculty Affairs for seven (7) years. Specific security requirements, such as double-locking, vary by funding agency and will be observed as appropriate.<sup>9</sup>

## **I. Assistance**

The Administrator and the Vice President of Research should be available to the Complaint Reviewer throughout the Inquiry to review the charge, discuss the allegations (including any related issues), review the appropriate procedures for conducting the Inquiry, assist with organizing plans for the Inquiry, answer any questions raised by the Complaint Reviewer, and otherwise advise the Complaint Reviewer as needed.

The Complaint Reviewer may consult with experts within and without the University in order to conduct a fair and impartial Inquiry and a thorough and authoritative evaluation of the relevant evidence. In all such consultations, the Complaint Reviewer should maintain confidentiality as far as is possible.

## **J. Draft Inquiry Report**

At the conclusion of the Inquiry, the Complaint Reviewer shall prepare a Draft Inquiry Report, which shall:

- Identify the name and position of the Respondent;
- Provide the name(s) and position(s) of all persons who served as Complaint Reviewers;
- Describe the allegations of misconduct examined by the Complaint Reviewer;
- Summarize the process used and evidence reviewed (documentary and interviews);
- List any external funding agencies that supported the activities in which the misconduct was alleged to have occurred; and
- Provide a short and plain statement of the Complaint Reviewer's basis for recommending or not

- recommending that the allegations warrant a Formal Investigation.<sup>10</sup>

The Complaint Reviewer should submit the Draft Inquiry Report to the University's counsel, who shall review the report for legal sufficiency. The Complaint Reviewer should then submit the Draft Inquiry Report, along with all secured documents and data, to the Administrator.

#### **K. Right to Review and Respond**

The Administrator shall be responsible for providing a copy of the Draft Inquiry Report to the Respondent and informing the Respondent that he or she is entitled to comment on the report within ten (10) calendar days from the Respondent's receipt of the report.<sup>11</sup>

The Administrator shall notify the Complainant whether the Inquiry determined that a Formal Investigation is warranted and may provide relevant portions of the Draft Inquiry Report to the Complainant for comment. The Complainant must enter into a confidentiality agreement in order to access the Inquiry report.

#### **L. Final Inquiry Report**

Any comments that are submitted by the Respondent or Complainant will be attached to the Final Inquiry Report. Based on the comments, the Complaint Reviewer may revise the Draft Inquiry Report as appropriate. The Complaint Reviewer shall then finalize the Inquiry report and submit it to the Administrator.

The Final Inquiry Report, along with the Administrator's written determination and any other detailed documentation to support the determination must be maintained by the Vice Provost of Faculty Affairs in a secure manner for a period of at least seven (7) years after the termination of the Inquiry.<sup>12</sup>

#### **M. Outcomes of the Preliminary Inquiry**

Within ten (10) calendar days of receiving the Final Inquiry Report, the Administrator, in consultation with the Vice President of Research, shall determine whether the University will conduct a Formal Investigation ("Investigation"). An Investigation is warranted if the Administrator concludes that: (1) there is a reasonable basis for concluding that one or more allegations fall within the definition of misconduct under this Policy, and (2) the information gathered during the Inquiry indicates that the allegation of misconduct may have substance.

If the Administrator determines that an Investigation is not warranted, the Administrator shall provide the Respondent, the Vice President of Research with a copy of the Final Inquiry Report, along with a letter explaining the Administrator's determination that an Investigation is not warranted. The Administrator shall also provide a copy of this letter to the Complainant and may provide the Complainant with relevant portions of the Final Inquiry Report, as the Administrator deems appropriate.

If the Administrator determines that an Investigation is warranted, he or she shall notify the Respondent, in writing, of the initiation of an Investigation. This notification shall (1) specify the allegations of misconduct to be investigated, (2) inform the Respondent of his or her right to be represented by counsel or other advisor during the Investigation, and (3) refer the Respondent to this Policy. The

Administrator shall also provide the Respondent with a copy of the Final Inquiry Report and any other detailed documentation to support the determination of the Administrator. If the alleged misconduct involves research supported by external funds, the Administrator shall refer the Respondent to Part 93 of Title 42 of the Code of Federal Regulations ("CFR"). If the alleged misconduct involves research supported by the National Science Foundation, the Administrator shall refer the Respondent to Part 689 of Title 45 CFR.**13**

If the Administrator determines that an Investigation is warranted, the Administrator shall also notify the Vice President of Research by providing a copy of the advising letter, along with a copy of the Final Inquiry Report. The Vice President of Research shall be responsible for notifying external funding agencies, as required, and for providing these agencies with the following information, upon request: (1) a copy of this Policy; (2) the research records and evidence reviewed, transcripts or recordings or any interviews, and copies of all relevant documents; and (3) the charges to be considered in the Investigation.**14**

The Administrator shall also notify principal investigators, co-investigators, and co-authors, if any, whose research may be affected by the alleged misconduct. These individuals must enter into a confidentiality agreement in order to access the Inquiry report.

If an Investigation has been deemed necessary, the Administrator shall also notify the Complainant and may provide the Complainant with relevant portions of the Final Inquiry Report, as the Administrator deems appropriate. The Complainant must enter into a confidentiality agreement in order to access the Inquiry report.

## **VII. THE FORMAL INVESTIGATION**

### **A. Purpose**

The purpose of the Formal 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 misconduct has been committed, by whom and to what extent, and what disciplinary actions (if any) should be imposed. The Investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegation.

### **B. Timeline**

The Administrator shall appoint an Investigation Committee ("Committee") within thirty (30) calendar days of the date the Administrator determines that an Investigation is warranted.**15** The Committee shall normally conclude its Investigation and submit a written report containing its findings and recommendations within one hundred twenty calendar days (120) of being appointed. If this deadline cannot be met, the Committee shall submit a request for an extension to the Administrator, along with an interim report on their progress to date and an estimated date for the completion of the report. If the Administrator approves this request, the Administrator shall provide a copy of the interim report, along with an explanation justifying the extension, to the Respondent, the Vice President of Research.**16** The Vice President of Research, or their designee, shall inform funding agencies of the extension, as required by these funding agencies.

### **C. Investigation Committee**

The Investigation Committee is charged with conducting the Formal Investigation. The Committee shall include at least three members, all of whom shall hold the rank of Full Professor and at least one of whom shall be tenured. In appointing members of the Committee, the Administrator shall consider the relationship of the Respondent(s) to the University and whether the allegations relate to research that was supported by external funding. In all cases the Committee must consist of individuals who do not have a personal, professional, or financial conflict of interest that would prevent them from acting without bias. The Committee should include at least one individual from outside the Respondent's primary unit, and should include at least one individual with the appropriate expertise to conduct the Investigation, interview the Respondent and Complainant, and evaluate the evidence and issues related to the allegation.<sup>17</sup> The Administrator may not serve on the Committee.

At the time of appointment, the Administrator shall provide a charge letter to the Committee. This letter shall:

- Describe the allegations and any related issues identified during the Inquiry;
- Identify the Respondent;
- Inform the Committee that it must conduct the Investigation as prescribed by this Policy;
- Provide a definition of misconduct in research;
- Inform the Committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, misconduct has occurred and, if so, the type and extent of it and who was responsible; and
- Inform the Committee that it must prepare or direct the preparation of a written report of the Investigation that meets the requirements of this Policy

### **D. Notification**

The Administrator shall notify the Respondent, in writing, of the initiation of an Investigation and the identities of the individuals who have agreed to serve on the Committee. The Administrator shall also notify the Respondent, in writing, of any new allegations, not addressed in the Inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations.<sup>18</sup>

The Administrator shall notify the Vice President of Research of Research Integrity of the initiation of any Investigation. In addition, the Administrator and/or the Committee shall notify the Vice President of Research immediately if any of the following conditions, which were not reported in the Preliminary Inquiry phase, are deemed likely to exist:

- There is an immediate need to suspend research activities;
- There is an immediate need to protect Federal funds or equipment;
- There is an immediate health hazard;
- There is an immediate need to protect the interests of the Complainant(s) or of the Respondent, as well as principal investigators, co-investigators, co-authors, and associates, if any;
- There is a likelihood that the alleged incident is going to be reported publicly;

- There is a reasonable indication of possible criminal violation as confirmed by the University's counsel. In that instance, the Vice President of Research or their designee must inform the funding agency within 24 hours of obtaining that information; or
- The health or safety of human or animal subjects is at risk or has been compromised, in which case the Vice President of Research or their designee shall promptly notify the Chair of the Chapman University Institutional Review Board (CUIRB) or Chair of the Chapman University Institutional Animal Care and User Committee.<sup>19</sup>

The Vice President of Research or their designee shall be responsible for notifying any affected funding agencies, as required, during the Formal Investigation stage.

### **E. Conflict of Interest**

If the Respondent believes that any proposed Committee member has a potential conflict of interest or for a substantial reason might be unable to make an impartial evaluation of the Respondent, the Respondent shall notify the Vice President of Research in writing of the specific basis for such a claim within three (3) calendar days of the Respondent's receipt of the Complaint Reviewer's notification. The Vice President of Research shall consider any information provided by the Respondent and any other information deemed relevant by the Vice President of Research, and shall notify the Respondent in writing of the outcome of the Respondent's challenge, which shall be within the Vice President of Research's sound discretion.

### **F. Securing Evidence**

On the date on which the Respondent is notified of the initiation of an Investigation, the Administrator shall 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 Investigation that were not previously sequestered during the Inquiry. The need for additional sequestration of records for the Investigation may occur for any number of reasons, including the University's decision to investigate additional allegations not considered during the Inquiry stage or the identification of records during the Inquiry process that had not been previously secured. The procedures to be followed for sequestration during the Investigation are the same procedures that apply during the Inquiry.<sup>20</sup>

### **G. Examination of Evidence**

The Committee shall examine evidence including, but not limited to, the following: research data and proposals, publications, correspondence, and memoranda of meetings or telephone calls. The Committee must interview the Complainant, where possible, and provide him or her a copy of the transcript or recording of the interview for correction. The Committee must also interview the Respondent and provide him or her a copy of the transcript or recording of the interview for correction. The Committee should also interview individuals suggested by the Complainant and the Respondent, as well as other individuals determined by the Committee as likely to have pertinent information regarding material allegations. Transcripts or detailed summaries of these interviews should be provided to the interviewed party for correction and should be included in the investigator file.<sup>21</sup> If the Committee determines to use media recordings for record-keeping process, such recordings shall only be made in compliance with applicable law, which generally requires the consent of the recorded parties.

The Committee shall exercise all diligence to examine all evidence relevant to reaching a decision on the merits of each allegation. The Committee should also diligently pursue all significant issues and leads discovered that are deemed relevant to the Investigation, including any evidence of additional instances of possible misconduct.**22**

#### **H. Record Keeping**

The Committee should maintain a detailed investigative file, including a log of investigative activities, copies of correspondence related to the Investigation, transcripts or summaries of interviews, reference materials used in the course of the Investigation, and other documents gathered for purposes of the Investigation. Records and data, or copies thereof, essential to the Investigation must be kept in a secure location under the control of the Vice Provost of Faculty Affairs for seven (7) years. Specific security requirements, such as double-locking, vary by funding agency and will be observed as appropriate.**23**

#### **I. Assistance**

The Administrator and the Vice President of Research or their designee should be available to the Committee throughout the Investigation to review the charge, discuss the allegations (including any related issues), review the appropriate procedures for conducting the Investigation, assist with organizing plans for the Investigation, answer any questions raised by the Committee, and otherwise advise the Committee.

The Committee may consult with experts within and without the University in order to conduct a fair and impartial Investigation and a thorough and authoritative evaluation of the relevant evidence. In all such consultations, the Complaint Reviewer should maintain confidentiality as far as is possible.

#### **J. Draft Investigation Report**

Upon completing its Investigation, the Committee shall prepare a Draft Investigation Report. The Draft Investigation Report shall:

- Identify the Respondent(s)
- Describe the nature of the allegation of misconduct;
- Describe and document the level of support from external funding agencies implicated in the allegation;
- Describe the specific allegations of misconduct considered in the Investigation;
- Include the institutional policies and procedures under which the Investigation was conducted;
- Identify and summarize the research records and evidence reviewed and identify any evidence taken into custody but not reviewed;
- Include transcripts or accurate summaries of interviews conducted during the course of the Investigation;
- Include a statement of findings for each allegation of misconduct identified during the Investigation. Each statement of findings must: (1) specify the nature of the misconduct and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion, utilizing the appropriate burden of proof and considering 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 misconduct because of honest error or a difference of opinion; (3) identify the support by external funding agencies, if any; (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 external funding agencies; and

- Describe the Committee's recommendations for disciplinary action, if any, in accordance with applicable University policies.**24**
- The Committee should submit the Draft Investigation Report to the University's counsel, who shall review the report for legal sufficiency. The Committee should then submit the Draft Investigation Report, along with all secured documents and data, to the Administrator.

#### **K. Right to Review and Respond**

The Administrator shall be responsible for providing the Respondent with a copy of the Draft Investigation Report and, concurrently, a copy of, or supervised access to the evidence on which the Draft Investigation Report is based. The Respondent will be allowed thirty (30) calendar days from the date he or she received the Draft Investigation Report to submit comments to the Administrator. The Respondent's comments (if any) must be included and considered in the Final Investigation Report.**25**

The Administrator may also provide the Complainant a copy of the Draft Investigation Report, or relevant portions of the Draft Investigation Report and any supporting evidence, for comment. If the Draft Investigation Report is provided to the Complainant, the Complainant will be allowed thirty (30) calendar days from the date he or she received the Draft Investigation to submit comments to the Administrator. The Complainant's comments (if any) must be included in the Final Investigation Report. The Complainant must enter into a confidentiality agreement in order to access the Draft Investigation Report.**26**

#### **L. Final Investigation Report and Recommendations**

The Administrator will assist the Committee in finalizing the Draft Investigation Report, including ensuring that the comments of the Respondent and Complainant (if any) are included and that the Committee's recommended actions are clearly stated. The Administrator shall add to the Investigation Report his or her written concurrence with the Committee's recommendations or his or her alternative recommendations, in case the Administrator does not agree with the recommendations of the Committee. The Administrator shall transmit the Final Investigation Report to the Respondent, the Vice President of Research, within seven (7) calendar days of receiving it from the Committee.

#### **M. Right to Review and Respond**

The Respondent shall have seven (7) calendar days to provide a response to the actions recommended in the Final Investigation Report. This response shall be limited to the recommendation of discipline (as opposed to a challenge to the determination that misconduct occurred). The Administrator may also provide the Vice President of Research with recommendations regarding the other findings and conclusions of the Committee.

### **VIII. CONCLUSION**

### **A. The Final Decision**

Within twenty-one (21) calendar days of the last day for Respondent to submit a response to the Final Investigation Report, the Vice President of Research will determine in writing: (1) whether the University accepts the Final Investigation Report and its findings, and (2) what the University's actions in response to the findings shall be. In making the Final Decision, the Vice President of Research shall use Preponderance of the Evidence as the standard of proof. If the Final Decision rendered by the Vice President of Research varies from the findings and recommendations of the Committee, the Vice President of Research will, as part of this written determination, explain in detail the basis for rendering a decision different from that of the Committee. Alternatively, the Vice President of Research may return the report to the Committee with a request for further fact-finding or analysis.

### **B. Notification**

When the Vice President of Research has reached a Final Decision on the case, the Vice President of Research will normally notify, in writing, the Respondent, the Administrator, the Principal Investigator(s) (if any), and the Complainant. The Vice President of Research will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals, collaborators, or other relevant parties should be notified of the outcome of the case. The Vice President of Research is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.<sup>27</sup>

### **C. Right to Appeal**

If the Respondent is a faculty member subject to Section X of the Chapman University Faculty Manual ("Section X"), he or she may file a grievance with respect to any disciplinary action imposed as a result of a finding of misconduct, in accordance with the procedures described in Section X. Such grievance shall be limited to the nature and level of disciplinary action imposed. The Faculty Grievance Board shall accept the factual findings and conclusions of the Investigation, and shall not accept evidence or consider argument relating to the underlying factual findings of the Investigation, such as whether misconduct occurred.

Students, who do not otherwise have an academic, administrative, or staff title, may appeal under the policies and procedures outlined in the Chapman University Student Conduct Code or procedures of the Academic Integrity Committee depending on the findings.

Staff members may appeal under relevant policies in the Staff and Administrative Handbook. In the event of any inconsistencies between this Policy and otherwise applicable provisions of the Faculty Manual, Student Conduct Code, Academic Integrity Committee or Staff and Administrative Handbook, the provisions of this Policy shall be applied.

### **D. Restoration of Reputation of the Respondent**

If an Investigation is found to be not warranted, or the Respondent has been exonerated by an Investigation, all references to the allegation(s) shall be expunged from the Respondent's personnel file. In addition, the University will endeavor to restore the Respondent's reputation. This may be accomplished through communication with members of the research community who are aware of the

allegation, publicizing the final outcome in forums in which the allegation of misconduct was previously publicized, or taking other steps worked out in coordination with the Respondent and the Vice President of Research.**28**

### **E. Termination or Resignation of the Respondent**

The termination of the Respondent's institutional affiliation, by resignation or otherwise, before or after an allegation of misconduct has been reported, will not preclude or terminate the misconduct proceeding or otherwise limit any of the University's responsibilities.

If the Respondent, without admitting to the misconduct, elects to resign his or her position after the University receives an allegation of misconduct, the Initial Assessment will proceed, as well as the Inquiry and Investigation, as appropriate based on the outcome of the preceding steps. If the Respondent refuses to participate in the process after resignation, the Administrator, Complaint Reviewer, and Committee will use their best efforts to reach a conclusion regarding the allegation, noting in their reports the Respondent's failure to cooperate and its effect on the evidence.

### **F. Premature Closures**

Generally, all Inquiries and Investigations will be carried through to completion and all significant issues will be pursued diligently. If the University plans to end proceedings at the Inquiry, Investigation, or appeal stages on the basis that the Respondent has admitted guilt, the University has reached a settlement with the Respondent, or for any other reason except for a finding of no misconduct, the Vice President of Research must notify the appropriate funding agencies in advance.**29**

***Approved: March 28, 2016***

- 1: 42 CFR § 93.108
- 2: 42 CFR § 93.307(c)
- 3: 42 CFR § 93.307(g)
- 4: 42 CFR §§ 93.304(c), 93.307(b)
- 5: 42 CFR § 93.316
- 6: 42 CFR § 93.318
- 7: 42 CFR §§ 93.305, 93.307(b)
- 8: 42 CFR § 93.310(g)
- 9: 42 CFR § 93.309(c)
- 10: 42 CFR § 93.309(a)
- 11: 42 CFR §§ 93.304(e), 93.307(f)
- 12: 42 CFR § 93.308(c)
- 13: 42 CFR § 93.308(a)
- 14: 42 CFR § 93.309(a) and (b)
- 15: 42 CFR § 93.310(a)
- 16: 42 CFR § 93.3011
- 17: 42 CFR § 93.304(b)
- 18: 42 CFR § 93.310(c)

- 19:** 42 CFR § 93.318
- 20:** 42 CFR § 93.310(d)
- 21:** 42 CFR § 93.310(g)
- 22:** 42 CFR § 93.310(e) and (h)
- 23:** 42 CFR § 93.317(b)
- 24:** 42 CFR § 93.313
- 25:** 42 CFR §§ 93.304(f), 93.312(a)
- 26:** 42 CFR §§ 93.312(b), 93.313(g)
- 27:** 42 CFR § 93.315
- 28:** 42 CFR § 93.304(k)
- 29:** 42 CFR § 93.316(a)