



PROCEDURE FOR INSTITUTIONAL POLICY R-03: RESEARCH MISCONDUCT

1. PURPOSE

The West Virginia School of Osteopathic Medicine (“WVSOM”) bears primary responsibility for prevention and detection of research misconduct associated with the institution. The purpose of this procedure is to promote integrity in research and to ensure that WVSOM complies with state and federal laws, rules, and regulations regarding research misconduct.

2. APPLICABILITY

- 2.1 This procedure applies to institutional members and all research misconduct involving research, research training, and related research activities, including the application for research funding whether or not funds are awarded.
- 2.2 WVSOM reserves the right to amend this procedure at any time, as necessary or appropriate.

3. DEFINITIONS

- 3.1 “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 the WVSOM Associate Dean for Research and Sponsored Programs.
- 3.2 “Associate Dean” means the WVSOM Associate Dean for Research and Sponsored Programs.
- 3.3 “Complainant” means a person who in good faith makes an allegation of research misconduct.
- 3.4 “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.
- 3.5 “Fabrication” means making up data or results and recording or reporting them.
- 3.6 “Falsification” means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.
- 3.7 “Good faith”:
 - 3.7.1 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 made with knowing or reckless disregard for information that would negate the allegation or testimony.
 - 3.7.2 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 WVSOM meet its responsibilities under this procedure. 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.
- 3.8 “Inquiry” means preliminary information-gathering and preliminary fact-finding conducted for the assessment of whether an allegation has substance and if an investigation is warranted.
- 3.9 “Institutional members” means all individuals employed by or affiliated with WVSOM, including but not limited to officials, faculty, teaching and support staff, researchers, research coordinators, clinical

technicians, students, volunteers, agents, and contractors, subcontractors, and subawardees, and their employees.

- 3.10 "Investigation" means the formal development of a factual record and the examination of that record leading to a decision not to make a finding of research misconduct or to a recommendation for a finding of research misconduct which may include a recommendation for other appropriate actions.
- 3.11 "Notice" means a written communication served in person, sent by mail or its equivalent to the last known street address, facsimile number, or e-mail address of the addressee.
- 3.12 "Plagiarism" means the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- 3.13 "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.
- 3.14 "Records of research misconduct proceedings" means (a) the research records and evidence that WVSOM secures pursuant to this procedure; (b) the documentation of the determination of irrelevant or duplicate records; (c) the inquiry report and final documents (not drafts) produced in the course of preparing that report, including the documentation of any decision not to investigate; and (e) the investigation report and all records (other than drafts of the report) in support of that report, including the recordings of transcriptions of each interview conducted.
- 3.15 "Research" means a systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research).
- 3.16 "Research misconduct" means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion.
- 3.17 "Research misconduct proceeding" means any actions related to alleged research misconduct taken under this procedure, including but not limited to, allegation assessments, inquiries, investigations, federal agency oversight reviews, hearings, or other related proceedings.
- 3.18 "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 WVSOM by a respondent in the course of the research misconduct proceeding.
- 3.19 "Respondent" means the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.
- 3.20 "Retaliation" means an adverse action taken against a complainant, witness, or committee member by WVSOM or one of its institutional members in response to:
 - 3.20.1 A good faith allegation of research misconduct; or
 - 3.20.2 Good faith cooperation with a research misconduct proceeding.

4. REPORTING ALLEGATIONS OF RESEARCH MISCONDUCT

All institutional members must report observed, suspected, or apparent research misconduct to the Associate Dean. If the circumstances described by the individual do not meet the definition of research misconduct, the Associate Dean will refer the individual to other offices or officials with responsibility over the reported matter.

5. CONDUCTING THE ASSESSMENT

- 5.1 Upon receiving an allegation of research misconduct, the Associate Dean will immediately assess the allegation to determine whether the allegation falls within the definition of research misconduct and whether it is sufficiently credible and specific so that potential evidence may be identified. An inquiry must be conducted if these criteria are met.
- 5.2 The Assessment period should be brief, preferably concluded within a week. In conducting the Assessment, the Associate Dean 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.

6. CONDUCTING THE INQUIRY

6.1 Initiation of the Inquiry

- 6.1.1 If the Associate Dean determines that the criteria for an inquiry are met, he or she will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.
- 6.1.2 On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the Associate Dean must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments.
- 6.1.3 At the time of or before beginning an inquiry, the Associate Dean must make a good faith effort to notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, the Associate Dean must notify them in writing.

6.2 Appointment of the Inquiry Committee

The Associate Dean, in consultation with the Vice President for Academic Affairs and Dean, will appoint an inquiry committee and committee chair as soon after the initiation of the inquiry as is practical. The inquiry committee must consist of at least three (3) individuals (must be an odd number) who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry.

6.3 Instructions to the Inquiry Committee

- 6.3.1 The Associate Dean will prepare a charge sheet for the inquiry committee that:
 - a. Defines research misconduct;
 - b. Describes the allegations and any related issues identified during the assessment;
 - c. Informs that the scope and purpose of the inquiry is to conduct an initial review of the evidence and determine whether an investigation is warranted. The scope does not include deciding whether research misconduct definitely occurred, determining definitely

who committed the research misconduct, or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of research misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case and if required by law, WVSOM shall promptly consult with the applicable federal agency to determine the next steps that should be taken. (See Section 8 below.)

- d. Provides the criteria required for determining that an investigation is warranted: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct and involves research, research training or related activities; and, (2) the allegation may have substance, based on the committee's review during the inquiry; and
- e. Sets forth the deadlines required by Sections 6.4, 6.5, and 6.6 for completion of the inquiry.

6.3.2 At the committee's first meeting, the Associate Dean will review the charge and the prescribed procedures and standards for the conduct of the inquiry, including the necessity for confidentiality and for developing a specific inquiry plan. The investigation committee will be provided with a copy of this procedure.

6.4 Inquiry Committee Responsibilities

6.4.1 The inquiry committee will interview the complainant, the respondent, and key witnesses as well as examine relevant research records and materials. The Associate Dean will be present or available throughout the inquiry to advise the committee as needed.

6.4.2 The committee will evaluate the evidence and make a recommendation on whether an investigation is warranted based on the criteria in Section 6.3.1.c above.

6.4.3 The committee chair will prepare a written report of the inquiry that includes the name and position of the respondent, a description of the allegations of research misconduct, any federal agency support, and the basis for recommending or not recommending that the allegations warrant an investigation.

6.4.4 The committee will deliver the draft report to the Associate Dean.

6.5 Final Decision and Inquiry Report

6.5.1 The Associate Dean will transmit the evidence and draft inquiry report to the Vice President for Academic Affairs and Dean ("VP for Academic Affairs"). The VP for Academic Affairs must evaluate the evidence and decide whether an investigation is warranted based on the criteria in Section 6.3.1.c above.

- a. If an investigation is warranted, the respondent will be removed as signatory for any grants on which he or she is principal investigator. As the respondent may remain eligible to all faculty rights of salary, rank, and title while the investigation is carried forward, WVSOM must utilize sources other than grant funds if a portion of the respondent's salary was designated to be paid by the sponsoring agency.
- b. If an investigation is not warranted, the Associate Dean shall secure and maintain for seven (7) years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by the applicable federal agency of the reasons why an investigation was not conducted. These documents must be provided to the federal agency upon request.

6.5.2 The VP for Academic Affairs shall notify the respondent whether the inquiry found an investigation to be warranted. The notice to the respondent must include a copy of the draft

inquiry report, a copy of or reference to 42 C.F.R. Part 93 if PHS funds were applied for or used, and a copy of WVSOM's policies and procedures on research misconduct. The respondent will be allowed five (5) business days from the date he/she received the draft inquiry report to submit comments to the VP for Academic Affairs.

6.5.3 Based on the comments, the VP for Academic Affairs may revise the draft report as appropriate. The VP for Academic Affairs will prepare the final inquiry report, which must include the following information:

- a. The name and position of the respondent;
- b. A description of the allegations of research misconduct;
- c. Any Federal support, including, for example, grant numbers, grant applications, contracts and publications listing the support;
- d. The basis for recommending or not recommending that the allegations warrant an investigation; and
- e. Any comments on the draft report submitted by the respondent.

6.5.4 The VP for Academic Affairs will deliver the final inquiry report to the Associate Dean.

6.6 Time for Completion

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

7. EVIDENTIARY STANDARDS FOR FINDINGS

7.1 Standard of Proof

A WVSOM finding of research misconduct must be proved by a preponderance of the evidence.

7.2 Burden of Proof

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

7.2.2 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 raised. In determining whether WVSOM has carried the burden of proof imposed by this procedure, the finder of fact shall give due consideration to admissible, credible evidence of honest error or difference of opinion presented by the respondent.

7.2.3 The respondent has the burden of going forward with and proving by a preponderance of the evidence any mitigating factors that are relevant to a decision to impose administrative actions following a research misconduct proceeding.

8. CONDUCTING THE INVESTIGATION

8.1 Custody of Research Records and Evidence

The Associate Dean must, prior to notifying respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the research misconduct proceeding that were not previously sequestered during the inquiry. The need for additional sequestration of records for the investigation may occur for any number of reasons, including WVSOM'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.

8.2 Notification of Investigation

8.2.1 The Associate Dean must provide a copy of the final inquiry report, including the allegations to be investigated, to the respondent within a reasonable time after determining that an investigation is warranted, but before the investigation begins. The Associate Dean must also give the respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.

8.2.2 If required by law, the Associate Dean must notify the applicable federal agency of the decision to begin the investigation and provide the federal agency a copy of the inquiry report. The federal agency must receive the decision and inquiry report on or before the date on which the investigation begins but no later than 30 calendar days of finding that an investigation is warranted. The Associate Dean must provide the following information to the federal agency upon request: (1) the institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges to be considered in the investigation.

8.3 Initiation of the Investigation

The investigation must begin within 30 calendar days after the determination by the VP for Academic Affairs 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. This is particularly important where the alleged research misconduct involves potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice.

8.4 Appointment of the Investigation Committee

The Associate Dean, in consultation with the Vice President for Academic Affairs and Dean, will appoint an investigation committee and the committee chair as soon after the beginning of the investigation as is practical. The investigation committee must consist of at least three (3) individuals (must be an odd number) who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation, interview the respondent and complainant and conduct the investigation. Individuals appointed to the investigation committee may also have served on the inquiry committee.

8.5 Instructions to the Investigation Committee

8.5.1 The Associate Dean will prepare a charge sheet for the investigation committee that:

- a. Defines research misconduct;
- b. Describes the allegations and related issues identified during the inquiry;
- c. Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, the type and extent of it and who was responsible;
- d. Provides the criteria required for determining that the respondent committed research misconduct: (1) there was a significant departure from accepted practices of the relevant research community; (2) the misconduct was committed intentionally, knowingly, or recklessly; and (3) the allegation must be proven by a preponderance of the evidence;
- e. Provides that the respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion; and
- f. Sets forth the deadlines required by Sections 8.6, 8.7, 8.8 and 8.9 for completion of the investigation.

8.5.2 At the committee's first meeting, the Associate Dean will review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of this procedure.

8.6 Investigation Committee Responsibilities

8.6.1 The investigation committee must conduct the investigation under the following standards:

- a. 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;
- b. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
- c. 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
- d. 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.

8.6.2 The committee will evaluate the evidence and inquiry report, and make a recommendation based on a preponderance of the evidence of whether research misconduct occurred based on the criteria in Section 8.5.1.d above. The Associate Dean will be present or available throughout the investigation to advise the committee as needed.

8.7 Investigation Report

8.7.1 The investigation committee must prepare a written draft report of the investigation that:

- a. Describes the nature of the allegation of research misconduct;

- b. Describes and documents the applicable federal agency support, if any, including, for example, the grant numbers, grant applications, contracts, and publications listing the federal agency support;
- c. Describes the institutional charge and specific allegations of research misconduct considered in the investigation;
- d. Includes WVSOM's policies and procedures under which the investigation was conducted;
- e. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
- f. Includes a statement of findings for each allegation of research misconduct identified during the investigation. For each separate allegation of research misconduct, the statement must provide a finding as to whether research 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 in reckless disregard; (2) summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by a preponderance of the evidence that he or she did not engage in research misconduct because of honest error or a difference of opinion; (3) identify the specific federal agency support, 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 other Federal Agencies.

8.7.2 The Associate Dean must give the respondent a copy of the draft report of investigation for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed 30 calendar days from the date he/she received the draft report to submit written comments on the draft report to the Associate Dean. The Associate Dean will immediately provide the written comments received, if any, to the investigation committee for consideration. The investigation committee will consider and address the respondent's written comments before issuing the final report.

8.7.3 The investigation committee will prepare the final report of investigation and deliver it to the Associate Dean.

8.8 Final Decision

8.8.1 The Associate Dean will transmit the final investigation report to the VP for Academic Affairs. The VP for Academic Affairs will determine in writing:

- a. Whether WVSOM accepts the investigation report, its findings, and the recommended institutional actions; and
- b. The appropriate institutional actions in response to the accepted findings of research misconduct. If this determination varies from the findings of the investigation committee, the VP for Academic Affairs 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 VP for Academic Affairs may return the report to the investigation committee with a request for further fact-finding or analysis.

8.8.2 When a final decision has been reached, the VP for Academic Affairs will notify the respondent and the Associate Dean in writing.

8.8.3 After informing the applicable federal agency if required by law, the VP for Academic Affairs 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.

8.9 Notice to Federal Agency

Unless an extension has been granted as provided in Section 8.10 below, the Associate Dean must, within the 120-day period for completing the investigation, submit to the applicable federal agency, if required by law, the following: (1) a copy of the final investigation report with all attachments; (2) a statement of whether WVSOM accepts the findings of the investigation report; (3) a statement of whether WVSOM found research misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the respondent.

8.10 Time for Completion

8.10.1 The investigation must be completed within 120 calendar days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment, and, if required by law, sending the final report to the applicable federal agency as required by Section 8.9 above.

8.10.2 If the Associate Dean determines that the investigation will not be completed within this 120-day period, he/she will submit to the applicable federal agency, if required by law, a written request for an extension, setting forth the reasons for the delay. If the federal agency grants the request for an extension and directs the filing of periodic progress reports, the Associate Dean will ensure that such reports are filed with the federal agency as directed.

8.11 Disciplinary Action

If research misconduct was found, the disciplinary process, including the determination of the nature and severity of the disciplinary action, shall follow applicable WVSOM policies and procedures on disciplinary actions. Disciplinary actions available to WVSOM include but are not limited to the following:

- a. Removal from a particular project;
- b. Letter of reprimand;
- c. Special monitoring of future work;
- d. Probation;
- e. Suspension;
- f. Salary reduction;
- g. Rank reduction;
- h. Termination of employment; and/or
- i. Expulsion.

8.12 Maintaining Records

8.12.1 If required by law, the Associate Dean must maintain and provide to the applicable federal agency upon request all records of research misconduct proceedings.

8.12.2 Unless custody has been transferred to the federal agency or the federal agency has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for seven (7) years after completion of the proceeding or the completion of any federal agency proceeding involving the research misconduct allegation, whichever is later.

8.12.3 The Associate Dean must provide any information, documentation, research records, evidence or clarification requested by the federal agency to carry out its review or analysis of an inquiry or investigation or of WVSOM's handling of a research misconduct allegation.

9. COMPLETION OF CASES

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. If required by law, the Associate Dean must notify the applicable federal agency in advance if there are plans to close a case at the inquiry or investigation 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 to the federal agency, as prescribed in this procedure.

10. GENERAL PROVISIONS

10.1 Cooperation with Research Misconduct Proceedings

Institutional members, including respondents, will cooperate with the Associate Dean and other WVSOM officials in the review of allegations and the conduct of inquiries and investigations, and have an obligation to provide evidence relevant to research misconduct proceedings.

10.2 Confidentiality

10.2.1 Disclosure of the identity of respondents and complainants in research misconduct proceedings is limited, to the extent possible, to those who need to know, consistent with a thorough, competent, objective and fair research misconduct proceeding, and as allowed by law. Provided, however, that:

- a. WVSOM must disclose the identity of respondents and complainants to federal agencies pursuant to a federal review of research misconduct proceedings, as required by law.
- b. Certain federal administrative hearings must be open to the public, as required by law.

10.2.2 Except as otherwise prescribed by applicable law, confidentiality must be maintained for any records or evidence from which research subjects might be identified. Disclosure is limited to those who have a need to know to carry out a research misconduct proceeding.

10.2.3 The Associate Dean should use written confidentiality agreements or other mechanisms to ensure that the recipient does not make any further disclosure of identifying information.

10.3 Protecting Informants and Committee Members

10.3.1 Institutional members may not retaliate in any way against complainants, witnesses, or committee members.

10.3.2 Institutional members should immediately report any alleged or apparent retaliation to the Associate Dean, who shall review the matter and make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

10.4 Protecting Respondents

10.4.1 As requested and as appropriate, WVSOM 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.

10.4.2 A respondent may consult with legal counsel or a non-lawyer advisor (who is not a principal or witness in the case) to seek advice and may bring the counsel or advisor to proceedings involving the respondent. The respondent's counsel or advisor may serve in an advisory capacity to the respondent in such proceedings, but may not speak on behalf of the respondent or otherwise participate directly in the proceedings. The respondent is responsible for all costs incurred relating to the use of counsel or an advisor.

10.5 Allegations Not Made in Good Faith

If WVSOM determines that a complainant's allegation of research misconduct was not made in good faith, or whether a witness or committee member did not act in good faith, WVSOM may take administrative action against the person who failed to act in good faith.

10.6 Respondent's Termination or Resignation

The termination of the respondent's 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 WVSOM's responsibilities under this procedure. If the respondent refuses to participate in the process after resignation, WVSOM will use its best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

10.7 Interim Administrative Actions and Notice to federal agency of Special Circumstances

10.7.1 If required by federal law, at any time during a research misconduct proceeding, WVSOM shall immediately notify the applicable federal agency if any of the following conditions exist:

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

10.7.2 WVSOM shall take appropriate interim action to protect against any threat of harm to public health, federal funds and equipment, or the integrity of the research process. Interim action may include additional monitoring of the research process and the handling of federal funds and equipment, reassignment of personnel or of the responsibility for the handling of federal funds and equipment, additional review of research data and results or delaying publication.

10.8 In the event the Associate Dean, the Vice President for Academic Affairs and Dean, or any other administrator referenced in this procedure has an unresolved personal, professional, or financial

conflict of interest with those involved with the inquiry or the investigation or if the allegation of research misconduct is against that administrator, then the WVSOM President shall designate another administrator to assume the duties of the conflicted administrator under this procedure.

11. REFERENCES

- 11.1 Federal Policy on Research Misconduct, National Science and Technology Council, Executive Office of the President of the United States, December 6, 2000.
- 11.2 Public Health Service Policies on Research Misconduct, 42 C.F.R. Part 93.

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