

Michigan Technological University

Procedures for Responding to Allegations of Misconduct in Research, Scholarly and Creative Endeavors

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I. Introduction

A. General Background

Advances in and benefits from science, engineering, and all fields of research and scholarship depend on the reliability of the research record as well as the process of conducting research and publishing results. The entire research enterprise relies on the integrity of researchers in proposing, performing or reviewing research and collecting, analyzing, and reporting research data.

Misconduct in Research, Scholarly and Creative Endeavors (hereafter Misconduct) has consequences for the individual, Michigan Tech, and the entire research enterprise. It can cost researchers, staff and students their careers. It can also do serious harm to the reputation of Michigan Tech. Sustained public trust in the research enterprise requires confidence in the research record and in the processes involved in its ongoing development. Because it violates the public trust, and it is the public that ultimately funds the research enterprise, misconduct can harm the organizations that fund and publish the results of research.

The primary responsibility for maintaining standards of intellectual integrity rests with individual scholars and with the departments in which they work. However, the University as a whole has a major role to play in: (1) providing an environment for open inquiry in which research can be conducted appropriately, (2) declaring the standards that must not be abrogated, and (3) enforcing the standards on those occasions where violations may have occurred. The purpose of this document is to set forth the procedures by which Michigan Tech seeks to maintain and enforce such standards through impartial fact-finding and fair adjudication of allegations of misconduct.

B. Scope

These procedures are based on the Department of Health and Human Services (DHHS), Office of Research Integrity's (ORI's) Sample Policy and Procedures for Responding to Allegations of Research Misconduct. These procedures provide more details than, but are consistent with, Michigan Tech's Policy on Misconduct in Research, Scholarly and Creative Endeavors. However, this document incorporates relevant sections of the uniform Federal Policy on Research Misconduct published in the Federal Register (Vol. 65, No. 235) on December 6, 2000. The National Science Foundation (NSF) and ~~Department of Health and Human Services (DHHS Public Health Service~~ require special reporting procedures and both have authority to conduct their own investigations in addition to investigations by the University (Code of Federal Regulations Title 42 Part 93 and Title 45 Part 689, respectively).

These procedures apply to all individuals at Michigan Tech engaged in sponsored or un-sponsored research, including any person paid by, under the control of, or affiliated with the University, including scientists, trainees, technicians and other staff members, students, fellows, guest researchers or collaborators at Michigan Tech.

These procedures will normally be followed when an allegation of possible research misconduct is received by a University official. Particular circumstances in an individual case may dictate variation from the normal procedure deemed to be in the best interests of the University. Any change from normal procedures must ensure fair treatment to the subject of the inquiry or investigation. Any significant variation from these procedures must be approved in advance by Michigan Tech's Research Integrity Officer (RIO), [the Associate Vice President for Research, Integrity and Facilities \(AVPRIF\)](#).

II. Definitions and Overview of Procedures

A. Misconduct in Research, Scholarly and Creative Endeavors Defined

Misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or in reporting research results and other practices that significantly depart from those that are commonly accepted within the relevant research community for proposing, performing or reporting research.

Creative Endeavors includes research and scholarship, but also means the preparation or creation of computer programs, motion pictures, sound recordings, and literary, pictorial, musical, dramatic, audiovisual, choreographic, sculptural, architectural and graphic works of any kind by faculty members, students or staff of the University.

1. **Fabrication** is making up data or results and recording or reporting them.
2. **Falsification** is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.
3. **Plagiarism** is the appropriation of another person's ideas, processes, results or words as if they were one's own without giving appropriate credit to the originator as is commonly practiced in the community of one's discipline. ~~Plagiarism also includes self-plagiarism, for example publishing the same work in multiple refereed scholarly journals without receiving permission to do so.~~ Plagiarism also includes the unattributed verbatim or nearly verbatim copying of sentences and paragraphs from another's work that materially misleads the reader regarding the contributions of the author. It does not include the limited use of identical or nearly identical phrases that describe a commonly used methodology. Plagiarism does not include self-plagiarism or authorship or credit disputes, including disputes among former collaborators who participated jointly in the development or conduct of a research project. Self-plagiarism and authorship disputes do not meet the definition of research misconduct.
4. Misconduct does not include honest error or differences in opinion. For example, if former collaborators on a research project or proposal make independent use of jointly-developed concepts, ideas, methods, descriptive language or the product of the joint work, or if one of the collaborators subsequently fails to credit the other(s), this is an example of an authorship or credit dispute.

The following other types of practices are also defined as misconduct:

1. Violation of any criminal or civil law in obtaining, analyzing or reporting data.
2. Applying for federal funding while under federal suspension or debarment, or knowingly utilizing as a co-principal investigator, technician, or consultant a person who is suspended or debarred.
3. Failure to maintain a record of primary data with the intent to deceive; e.g. destroying laboratory notebooks (whether written or electronic), survey forms, microscope reference slides, computer or other machine printouts with the intent to deceive. ~~Simple failure to maintain adequate records is not sufficient to provide evidence of research misconduct. In order for the lack of research records to be evidence of research misconduct, the respondent had to have destroyed them or refused to provide them.~~
4. Failure to report known or suspected acts of misconduct on the part of others, including the act of knowingly withholding or destroying evidence which would be crucial in an investigation of misconduct.
5. Abuse of confidentiality when gathering or reporting data; e.g., releasing data gathered during privileged communication.
6. Use of honorary authorship, without the person's consent, and/or with the intent to deceive.
7. Without being involved with the research in question, making a demand to be listed as an author on a researcher's publication, solely because the person making the demand is in a position of authority over the researcher.

B. Findings of Misconduct

A finding of misconduct requires that:

- there must be a significant departure from accepted practices of the relevant research community; and
- the misconduct must be committed intentionally, or knowingly, or recklessly; and
- the allegation must be proven by a preponderance of evidence.

C. Multiple Phases of the Response to an Allegation of Research Misconduct

A response to an allegation of misconduct consists of three phases, including:

- (1) an **inquiry**--the assessment of whether the allegation has substance and if an investigation is warranted;
- (2) an **investigation**--the formal development of a factual record, and the examination of that record leading to dismissal of the case or to a recommendation for a finding of misconduct or other appropriate remedies; and
- (3) **adjudication**--during which recommendations are reviewed and appropriate corrective actions are determined.

D. Definitions

1. **Allegation** means any written or oral statement or other indication of possible research misconduct made to a University official from either an internal or external source.
2. **Complainant** means a person who in good faith makes an allegation of misconduct.
3. **Conflict of Interest** is when actual bias or the appearance of bias exists due to a person's prior or existing personal or professional relationships that could compromise his or her impartiality.
4. **Deciding Official** means the university official who makes final determinations on allegations of Misconduct and any responsive institutional actions. Michigan Tech's Deciding Official is the Vice President for Research.
5. **Good Faith Allegation** means an allegation made with the honest belief that misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.
6. **Intentionally** means to act with the aim of carrying out the act.
7. **Knowingly** means to act with awareness of the act.
8. **Recklessly** means that a person consciously disregards a substantial and unjustifiable risk or grossly deviates from the standard of conduct that reasonable individuals observe. **This occurs when they propose, perform, or review research, or report research results, with indifference to a known risk of fabrication, falsification, or plagiarism.**
9. **Research**, as used herein includes all basic, applied, and demonstration research in all fields of science, engineering, mathematics, business, technology, arts and humanities. This includes research involving human subjects or animals. Research includes students' theses, dissertations and all other systematic investigations designed to develop or contribute to generalized knowledge. Research does not include classroom assignments, unless those assignments are systematic investigations designed to develop or contribute to generalized knowledge.
10. **Research Integrity Officer (RIO)** means the University official responsible for assessing allegations of misconduct and determining when such allegations warrant inquiries and for overseeing inquiries and investigations. Michigan Tech's RIO is the Associate Vice President for **Research Development (AVPRD) Integrity and Facilities (AVPRIF)** in the Office of the Vice President for Research.
11. **Research Record** means the record of data or results that embodies the facts resulting from scientific inquiry, and includes, but is not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, dissertations, oral presentations, internal reports and journal articles.

12. **Respondent** means the person against whom an allegation of misconduct is directed or the person whose actions are the subject of an inquiry or investigation. There can be more than one respondent in any inquiry or investigation.
13. **Responsible Academic Officer** means with respect to any respondent, the Chair, College Dean, or Director of the Institute or Center or equivalent unit at the university of which such respondent is a staff, student, or faculty member. If a student is involved, this would include the Dean of the Graduate School or the Dean of Students.
14. **Retaliation** means any adverse action taken against a complainant, witness or committee member by any person paid by, under the control of, or affiliated with the university in response to a good faith allegation of misconduct or good faith cooperation with a misconduct proceeding in response to an allegation of misconduct.
15. **Witness** means any individual who testifies or provides information in response to an allegation or whose research record is used as evidence during a misconduct proceeding.

III. Rights and Responsibilities

A. Research Integrity Officer

The ~~AVPRD~~ AVPRIF will serve as the RIO who will have primary responsibility for implementation of the procedures set forth in this document. The RIO will handle the procedural requirements involved and will be sensitive to the varied demands made on those who conduct research, those who are accused of misconduct, and those who report apparent misconduct in good faith.

The RIO will attempt to ensure that confidentiality is maintained.

The RIO will assist the Inquiry and Investigation Committees and all university personnel in complying with these procedures and with applicable standards imposed by the government or other external funding sources. The RIO is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files.

B. Complainant

The complainant will have an opportunity to testify before the Inquiry and Investigation Committees, to review portions of the inquiry and investigation reports pertinent to his/her allegations or testimony, to be informed of the results of the inquiry and investigation, and to be protected from retaliation. Also, if the RIO has determined that the complainant may be able to provide pertinent information on any portions of draft reports these portions will be given to the complainant for comment.

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation. [see section XII.D]

C. Respondent

The respondent will be informed of the allegations when an inquiry is opened and notified in writing of the final determinations and resulting actions. The respondent will also have the opportunity to be interviewed by and present evidence to the Inquiry and Investigation Committees, to review the draft inquiry and investigation reports, and to independently have the advice of counsel.

The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry or investigation. If the respondent is found not guilty of misconduct, he or she has the right to receive university assistance in restoring his or her reputation. [see section XII.B]

D. Deciding Official

The deciding official will receive the inquiry and/or investigation report and any written comments made by the respondent or the complainant on the draft report. The deciding official will consult with the RIO

or other appropriate officials and will determine whether to conduct an investigation, whether misconduct occurred, whether to impose sanctions, or whether to take other appropriate administrative actions [see section X]. Michigan Tech's deciding official is the Vice President for Research.

IV. General Policies and Principles

A. Responsibility to Report Misconduct

All employees or individuals associated with Michigan Tech, including faculty, staff and students, must report observed, suspected, or apparent misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of misconduct, he or she should call the RIO at (906) 487-3098 to informally discuss the suspected misconduct. If the circumstances described by the individual do not meet the definition of misconduct, the RIO will refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

A university employee may have confidential discussions and consultations about concerns of possible misconduct with the RIO at any time and will be counseled about appropriate procedures for reporting allegations.

The university encourages reasonable efforts to be made to resolve issues of alleged misconduct prior to the commencement of formal administrative procedures. If an individual believes that there are grounds for making an allegation of misconduct, such individual may initially notify the appropriate responsible academic officer, who will use his/her good faith efforts to resolve such individual's concerns informally. The administrative procedures described in this document (other than safeguards of confidentiality, and protection of complainant, respondent and witnesses) shall not be applicable to any such informal process.

In the event that the concerns of any individual are not resolved informally to the satisfaction of such individual, such individual may make a formal allegation of misconduct, and the administrative procedures described in this document then apply.

B. Protecting the Complainant

The RIO will monitor the treatment of individuals who bring allegations of misconduct or of inadequate University response thereto, and those who cooperate in inquiries or investigations. The RIO will ensure that these persons will not be retaliated against in the terms and conditions of their employment or other status at the University and will review instances of alleged retaliation for appropriate action.

Employees should immediately report any alleged or apparent retaliation to the RIO.

The institution will also protect the privacy of those who report misconduct in good faith to the maximum extent possible. For example, if the complainant requests anonymity, the institution will make an effort to honor the request during the allegation assessment or inquiry within applicable policies and regulations and state and local laws, if any. The complainant will be advised that if the matter is referred to an Investigation Committee and the complainant's testimony is required, anonymity may no longer be guaranteed. The university will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

C. Protecting the Respondent

Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the respondent(s) in the inquiry or investigation and confidentiality to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry or investigation.

University employees accused of misconduct may consult with legal counsel or a non-lawyer personal

adviser (who is not a principal or Witness in the case) to seek advice. If the respondent is a student the Dean of the Graduate School or the Dean of Students should be asked to appoint an advocate to advise the student of the process.

D. Cooperation with Inquiries and Investigations

University employees will cooperate with the RIO and other Michigan Tech officials in the review of allegations and the conduct of inquiries and investigations. Employees have an obligation to provide relevant evidence to the RIO or other Michigan Tech officials on misconduct allegations.

E. Preliminary Assessment of Allegations

Upon receiving an allegation of misconduct, the RIO will assess the allegation within five (5) business days to determine whether there is sufficient evidence to warrant an inquiry, whether agency support or applications for funding are involved, and whether the allegation falls under the definition of misconduct.

V. The Inquiry Phase

A. Initiation and Purpose of the Inquiry

Following the preliminary assessment, if the RIO determines that the criteria for an inquiry are met, he or she will immediately initiate the inquiry process. [see section IV.E] The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the Respondent, Complainant, and key Witnesses to determine whether there is sufficient evidence of possible misconduct to warrant an investigation. The purpose of the inquiry is **not** to reach a final conclusion about whether misconduct definitely occurred or who was responsible. The findings of the inquiry must be set forth in an inquiry report.

B. Sequestration of the Research Records

After determining that an allegation falls within the definition of misconduct, the RIO must ensure that all original research records, computer files and any materials relevant to the allegation are immediately secured. All evidence should be inventoried and sequestered in a secure manner, except that where the research records or evidence encompass scientific instruments shared by multiple users custody may be limited to copies of the data or evidence on the instruments, as long as those copies are substantially equivalent to the evidentiary value of the instruments. The respondent may also request sequestration of additional records.

C. The Inquiry Committee

The Inquiry Committee is a standing committee made up of three members and one alternate selected by the University Senate. The Inquiry Committee shall consist of individuals who have no real or apparent conflicts of interest in the case, are unbiased, and have expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. If a member is aware of any factors that might compromise his/her impartial review of alleged misconduct in a particular case, this person shall excuse himself/herself from the proceedings. If one of the three primary members has a conflict of interest with any of the parties involved in the alleged misconduct or is in the same department/non-academic unit as the one in which the alleged misconduct occurred, the RIO shall designate that this member be replaced by the alternate when transmitting the allegations to the Committee.

D. Notification

The RIO will notify the respondent of the allegations of misconduct and of the Inquiry Committee membership within ten (10) business days of the decision to initiate an inquiry. If the Respondent submits a written objection to any member of the Inquiry Committee based on bias or conflict of interest within five (5) business days of receiving notice, the RIO will determine whether to replace the challenged member.

E. Charge to the Committee and the First Meeting

The RIO will prepare a charge for the Inquiry Committee that (1) describes the allegations and any related issues identified during the allegation assessment, and (2) states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the Respondent, Complainant, and key Witnesses to determine whether there is sufficient evidence of possible misconduct to warrant an investigation. The purpose is **not** to determine whether misconduct occurred or who was responsible.

At the committee's first meeting, the RIO will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry; assist the committee with organizing plans for the inquiry; and answer any questions raised by the committee. The RIO and a University attorney will be present or available throughout the inquiry to advise the committee as needed.

F. Inquiry Process

The Inquiry Committee will normally interview the Complainant, the Respondent, and key Witnesses as well as examine relevant research records and materials. Then the Inquiry Committee will evaluate the evidence and testimony obtained during the inquiry. After consultation with the RIO (and a university attorney if deemed necessary), the committee members will decide whether there is sufficient evidence of possible misconduct to recommend further investigation. The scope of the inquiry does **not** include deciding whether misconduct definitely occurred, determining who was responsible, or conducting exhaustive interviews and analyses.

G. Recommendations

Two recommendations may result from this initial inquiry: 1) the allegations have sufficient substance to warrant further investigation; or 2) the allegations are without merit. In either case, subsequent action may be recommended including such action as is necessary to restore the reputations of persons whose alleged misconduct has not been confirmed and to protect those persons having made good faith allegations.

H. Time Limit for Completing Inquiry Report

The Inquiry Committee will complete the inquiry and submit its report in writing to the RIO no more than forty-five (45) calendar days following its first meeting, unless the RIO approves an extension for good cause. If the RIO approves an extension, the reason for the extension will be entered into the records of the case and the report. The respondent also will be notified of the extension.

VI. The Inquiry Report

A. Elements of the Inquiry Report

A written inquiry report must be prepared that states the name and position of the respondent, committee members and experts, if any; the allegations; the funding agency, if any; a summary of the inquiry process used; a list of the research records reviewed; summaries of any interviews; a description of the evidence in sufficient detail to demonstrate whether an investigation is warranted or not; and the committee's determination as to whether an investigation is recommended and whether any other actions should be taken if an investigation is not recommended.

The inquiry report should also include a description of analyses conducted, transcripts of any interviews that were transcribed, a timeline and procedural history, an inventory of sequestered research records, and any institutional actions implemented. Because institutions are required to share the inquiry report with respondents, respondents now are granted access to all transcripts of transcribed interviews. A university attorney may review the report for legal sufficiency.

B. Comments on the Draft Report by the Respondent and the Complainant

The RIO will provide the respondent a copy of the draft inquiry report for comment and rebuttal and will provide the complainant, if he or she is identifiable, with portions of the draft inquiry report that address the complainant's role and opinions in the investigation.

The RIO may establish reasonable conditions for review to protect the confidentiality of the draft report.

Receipt of Comments: Within ten (10) business days of their receipt of the draft report or excerpts from the draft report, the complainant and respondent will provide their comments, if any, to the Inquiry Committee. Any comments that the complainant or respondent submits on the draft report will become part of the final inquiry report and record. Based on the comments, the Inquiry Committee may revise the report as appropriate.

C. Inquiry Decision and Notification

1. Decision by Deciding Official

The RIO will transmit the final report and any comments to the Deciding Official, who will make the determination in writing of whether findings from the inquiry provide sufficient evidence of possible misconduct to justify conducting an investigation. The inquiry is completed when the Deciding Official makes this determination, which shall be within ten (10) business days of the Deciding Official's receipt of the final inquiry report. Any extension of this period shall be based on good cause and recorded in the inquiry file.

If the allegation of misconduct involves only a thesis or dissertation, the RIO will transmit the final report and any comments to the Dean of the Graduate School (who will be considered the Deciding Official in this circumstance), who will make the determination in writing of whether findings from the inquiry provide sufficient evidence of possible misconduct to justify conducting an investigation.

2. Notification

The RIO will notify both the respondent and the complainant in writing, within five (5) business days, of the Deciding Official's decision of whether to proceed to an investigation and will remind them of their obligation to cooperate in the event an investigation is opened. The RIO will also notify all appropriate university officials of the Deciding Official's decision.

VII. Conducting the Investigation

A. Purpose of the Investigation

The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged misconduct involves clinical trials or 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. The findings of the investigation will be set forth in an investigation report.

B. Sequestration of the Research Records

On or before the date the investigation begins, the RIO will sequester any additional pertinent research records that were not previously sequestered during the inquiry. The need for additional sequestration of records may occur for any number of reasons, including the institution'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.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the RIO will determine whether it is necessary to notify the respondent of the new subject matter or to provide notice to additional respondents.

C. Appointment of the Investigation Committee

The RIO, in consultation with other Michigan Tech officials as appropriate, shall appoint an Investigation Committee and the committee chair within ten (10) business days of the notification to the respondent that an investigation is planned. The Investigation Committee should consist of at least five individuals who have no real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegations, interview the principals and key witnesses and conduct the investigation. Three (3) of these five (5) members shall be selected from a list of at least six (6) university faculty/staff candidates recommended by the initial Inquiry Committee. This Investigation Committee will generally not include members of the same academic department or operating unit as the respondent(s) or be members of the Inquiry Committee but may include up to two faculty or staff members with appropriate expertise from other institutions.

If the investigation involves only a graduate student thesis or dissertation, the investigation will be conducted by the Graduate Research Integrity Committee. The Graduate Research Integrity Committee will consist of five (5) members and two (2) alternates as follows: the Ombuds office, one (1) member; Judicial Affairs, one (1) member; ~~AVPRD~~ AVPRIF Department, one (1) member; one (1) member and one (1) alternate elected by the Graduate Faculty Council, and one (1) member and one (1) alternate elected by the University Senate.

The RIO will notify the respondent of the proposed committee membership within five (5) business days after appointing the committee. If the respondent submits a written objection to any appointed member of the Investigation Committee or expert within five (5) business days of receipt of notification of the committee, the RIO will determine whether to replace the challenged member or expert with a qualified substitute.

D. Charge to the Investigation Committee and the First Meeting

1. Charge to the Committee

The RIO will define the subject matter of the investigation in a written charge to the committee that

describes the allegations and related issues identified during the inquiry, defines misconduct, and identifies the name of the respondent. The charge will state that the committee is to evaluate the evidence and testimony of the respondent, complainant, and key witnesses to determine whether, based on a preponderance of the evidence, misconduct occurred and, if so, what type, to what extent, who was responsible, and its seriousness.

2. **The First Meeting**

The RIO will convene the first meeting of the Investigation Committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The Investigation Committee will be provided with a copy of these instructions. A university attorney may be present, if deemed necessary, and will be available throughout the investigation.

E. **Investigation Process**

The Investigation Committee will be appointed and the process initiated within fifteen (15) calendar days of the Deciding Official's decision to investigate.

The investigation shall involve examination of all relevant documentation including, but not necessarily limited to, research records, computer files, proposals, manuscripts, publications, correspondence, memoranda and notes of telephone calls. Whenever possible, the Investigation Committee should interview the complainant(s), the respondents(s), and other individuals who might have information regarding aspects of the allegations. The respondent will be notified sufficiently in advance of the scheduling of his/her interview in the investigation so that the Respondent may prepare for the interview. Interviews of the respondent ~~must be~~ ~~should be~~ ~~tape~~ recorded and transcribed. All other interviews ~~must will be~~ ~~tape~~ recorded and transcribed, ~~or summarized~~. Summaries and transcripts of the interviews will be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file.

Necessary support (e.g., clerical, gathering information, witnesses and recordkeeping) will be arranged by the RIO. Sessions with expert witnesses may be conducted either in person or ~~virtually through electronic means such as telephone conference calls~~. Funding for essential off-campus expert witnesses called by the Investigation Committee shall be provided by the RIO.

The respondent shall be informed of all evidence against him/her and be provided the right to present evidence and testimony on his/her behalf. If deemed necessary by the Investigation Committee, and agreeable to both the complainant and the respondent, both parties may also be questioned in the presence of each other.

F. **Time Limit for Completing the Investigation Report**

An investigation will be completed within ~~one hundred and twenty (120)~~ ~~ninety (90)~~ calendar days of its initiation, with the initiation defined as the appointment of the Investigation Committee, unless the RIO approves an extension for good cause. This includes conducting the investigation, preparing the report of findings, making the draft report available to the respondent for comment, submitting the report to the Deciding Official for approval and completing the final report. If the RIO approves an extension, the reason for the extension will be entered into the records of the case and the report. The respondent also will be notified of the extension.

VIII. **The Investigation Report**

A. **Elements of the Investigation Report**

The final report must:

- describe the nature of the allegations of misconduct and identify the respondent.
- describe and document agency support, if any.
- describe the specific allegations of misconduct considered in the investigation.
- include the policies and procedures under which the investigation was conducted.
- identify and summarize the records and evidence reviewed; identify any evidence taken into custody, but not reviewed; and also describe any relevant records and evidence not taken into custody and explain why it was not reviewed.
- describe how and from whom information relevant to the investigation was obtained.
- state the findings, and explain the basis for the findings.
- include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct as well as a description of any recommended sanctions and administrative actions.
- include an inventory of sequestered materials and how sequestration was conducted, transcripts of all interviews, and any scientific or forensic analyses conducted.

B. Comments on the Draft Report

1. Respondent

The RIO will provide the respondent with a copy of the draft investigation report for comment and rebuttal. The respondent will be allowed ten (10) business days to review and comment on the draft report. The respondent's comments will be included and considered in the final report.

2. Complainant

The RIO will provide the complainant with those portions of the draft investigation report that address the complainant's role and opinions in the investigation. The complainant will be allowed ten (10) business days to review and comment on the draft report. The complainant's comments will be included and considered in the final report.

3. University Attorney

The draft investigation report may be transmitted to a university attorney for a review of its legal sufficiency. Comments should be incorporated into the report as appropriate.

4. Confidentiality

In distributing the draft report, or portions thereof, to the respondent and complainant, the RIO will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may request the recipient to sign a confidentiality statement.

C. University Review and Decision

The RIO will submit the final report to the Deciding Official, who will make the final determination in writing whether to accept the investigation report, its findings, and the recommended University actions. The Deciding Official may also return the report to the Investigation Committee with a request for further fact-finding or analysis. If the Deciding Official's determination varies from that of the Investigation Committee, he or she will explain in detail the basis for rendering a decision different from that of the investigation. The Deciding Official's written determination, together with the Investigation Committee's report, constitutes the final investigation report.

If a student is involved, the RIO will first submit the investigation report, findings and the recommended actions regarding the student to either the Dean of the Graduate School or the to the Dean of Students for their recommendations before submitting to the Deciding Official.

When a final decision on the case has been reached, the RIO will notify both the respondent and the complainant in writing. In addition, the Deciding Official will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

IX. Requirements for Reporting to Federal Agencies

- A. The RIO shall contact any relevant federal agency when federal funding is involved to determine if the specific form of misconduct, as defined in these procedures, meets its definition of research misconduct. If the misconduct falls within the agency's definition, the following procedures will apply.
- B. The RIO shall report to the agency as required by regulation and keep it apprised of any developments during the course of the inquiry or investigation that may affect current or potential funding for the individual(s) under investigation or that the agency needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest. The Deciding Official's decision to initiate an investigation will be reported in writing to the agency on or before the date the investigation begins. At a minimum, the notification should include the name of the person(s) against whom the allegations have been made, the general nature of the allegation as it relates to the agency's definition of research misconduct, and the applications or grant number(s) involved. The agency will also be notified of the final outcome of the investigation and must be provided with a copy of the investigation report with attachments, including the comments of the respondent and complainant. Any significant variations from the provisions of the university policies and procedures should be explained in any reports submitted to the agency.
- C. If Michigan Tech plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of any applicable regulations, the RIO will submit a report of the planned termination to the agency, including a description of the reasons for the proposed termination.
- D. If Michigan Tech determines that it will not be able to complete the investigation in one hundred and twenty (120) days, the RIO will submit to the agency a written request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken. If the request is granted, the RIO will file periodic progress reports as may be requested by the agency.
- E. When funding or applications for funding are involved and an admission of misconduct is made, the RIO will contact the relevant agency for consultation and advice. Normally, the individual making the admission will be asked to sign a statement attesting to the occurrence and extent of misconduct. When the case involves agency funds, the University will not accept an admission of misconduct as a basis for closing a case or not undertaking an investigation without prior approval from the agency.
- F. The RIO will notify the agency at any stage of the inquiry or investigation if:
 - (1) there is an immediate health, safety or environmental hazard involved;
 - (2) research activities should be suspended;
 - (3) there is an immediate need to protect federal funds, equipment, other resources, or the agency's reputation or other interests;
 - (4) there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;

- (5) it is probable that the alleged incident is going to be reported publicly; or
- (6) the allegation involves a public health sensitive issue, e.g., a clinical trial; or
- (7) there is a reasonable indication of a possible civil or criminal violation. In this case, Michigan Tech will inform the agency within 24 hours of receiving the information.
- (8) the scientific community or the public should be informed.

G. The relevant agency shall be provided with a copy of the final investigation report.

X. Adjudication: University Administrative Actions

Michigan Tech will take appropriate administrative actions against individuals when an allegation of misconduct has been substantiated.

If the Deciding Official determines that the alleged misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken. With the advice of university legal counsel, the Deciding Official shall decide how to proceed under applicable university rules and contractual agreements. The actions may include but are not limited to:

1. withdrawal or correction of all pending or published abstracts and papers emanating from the research where misconduct was found.
2. removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, assurances to be filed with sponsoring agencies, probation, suspension, salary reduction or initiation of steps leading to possible rank reduction or termination of employment.
3. restitution of funds as appropriate.

If the individual is a student, credit hours and the grade for the course in question may be withdrawn and the student may be suspended or expelled, or a hold placed on future registration. If the research in question was the basis of a graduate thesis or dissertation or played a significant role in the award of an undergraduate, graduate or professional degree, the university reserves the right to withdraw the degree awarded. The student's transcript will be amended and Michigan Tech will notify professional societies, licensing boards or other pertinent parties of the decision.

XI. Appeal

Individuals have a right to appeal decisions to the Provost and Senior Vice President for Academic Affairs. Such appeals must be made in writing within ten (10) business days after notification of the Deciding Official's decision. The Provost and Senior Vice President for Academic Affairs shall establish an Appeal Committee of at least three impartial members to review the matter and make recommendations. This Appeal Committee shall consist of two university faculty or staff members who are not members of previous committees, and one faculty or staff member with appropriate expertise from another organization. The Appeal Committee shall begin its deliberations within twenty (20) calendar days after the appeal has been filed, and it shall report its findings back to the Provost and Senior Vice President for Academic Affairs within twenty (20) calendar days after being convened. The Provost and Senior Vice President for Academic Affairs' decision shall be submitted to the respondent, complainant, committees, RIO and other university officials.

XII. Other Considerations

A. Termination of University Employment or Resignation Prior to Completing an Inquiry or Investigation

The termination of the respondent's university employment, by resignation or otherwise, before or after an allegation of possible misconduct has been reported, will not preclude or terminate the misconduct proceedings. If the respondent, without admitting to the misconduct, elects to resign his or her position at

any time prior to or during the inquiry or investigation, but after an allegation has been reported, the inquiry or investigation will proceed as described in this document. If the respondent refuses to participate in the process after resignation, the RIO and/or the committee(s) will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the review of all the evidence.

B. Restoration of the Respondent's Reputation

If the University finds no misconduct, and NSF or other relevant agency (if sponsored funds are involved) concurs, the RIO, after consulting with the respondent, will undertake reasonable efforts to restore the respondent's reputation. Depending on the particular circumstances, the RIO shall notify those individuals aware of or involved in the investigation of the final outcome, including notification of the involved funding agency, if any. The RIO will publicize the final outcome in forums in which the allegation of misconduct was previously publicized and expunge all reference to the misconduct allegation from the respondent's personnel file. Any university actions to restore the respondent's reputation must first be approved by the Deciding Official.

C. Protection of the Complainant and Others

Regardless of the findings, the RIO will undertake reasonable efforts to protect complainants who made allegations of misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the Deciding Official will determine what steps, if any, are needed to restore the position or reputation of the Complainant or others cooperating in good faith, after consulting with these individual(s). The RIO is responsible for implementing any steps the Deciding Official approves. The RIO will also take appropriate steps during the inquiry and investigation to prevent any retaliation against the Complainant or others.

D. Allegations and Actions Not Made in Good Faith

If relevant, the Deciding Official will determine whether the complainant's allegations of misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the Deciding Official determines that a complainant, witness or committee member did not act in good faith, he/she will determine whether any administrative action should be taken against that person.

E. Interim Administrative Actions

Michigan Tech officials will take interim administrative actions, as appropriate, to protect public health, safety, the environment, Federal or other funds, and to ensure that the purposes of any financial assistance are carried out.

XIII. Record Retention

After completion of a case and all ensuing related actions, the RIO will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the RIO or committees. The RIO will keep the file for seven (7) years after completion of the case to permit later assessment of the case. The funding agency, if any, will be given access to the records upon request.