



Operational Area:	Academics and Research
Responsible Executive:	Chief Academic Officer
Responsible Office:	Academic Affairs
Effective:	2014

## Research Misconduct

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- A. **Authority:** Colorado Revised Statutes (C.R.S.) § 23-54-102, *et seq.* (2014) authorizes the Trustees of Metropolitan State University of Denver (“MSU Denver” or “University”) to establish rules and regulations to govern and operate the University and its programs. The MSU Denver Trustees authorize the MSU Denver President, who subsequently authorizes the MSU Denver Provost, to approve, to administer, and to interpret policies pertaining to the academic functions of the University.
  - B. **Purpose:** MSU Denver adheres to the highest standards of ethical conduct to ensure the credibility and trustworthiness of research activities. This document defines the behaviors that constitute research misconduct and describes the University’s policies and procedures for investigating and responding to such allegations. The policies and procedures in this document adhere to federal requirements of the University’s research sponsors, as well as the University’s due process consideration.
  - C. **Scope:** This policy applies to all individuals at MSU Denver engaged in research projects including those governed by federal funding regulations, and to any person paid by, under control of, or affiliated with MSU Denver, including administrators, faculty, students, guest researchers, and collaborators. Cases of alleged research misconduct involving students are also subject to the normal disciplinary rules governing students,



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but will be reviewed, as appropriate, under the procedures described in this document. Student misconduct that falls outside of research is addressed in MSU Denver's Student Code of Conduct.

### II. Roles and Responsibilities

- A. **Responsible Executive:** President
- B. **Responsible Administrator:** Provost
- C. **Responsible Office:** Provost's Office
- D. **Policy Contact:** Provost's Office, 303-615-1900
- E. Additional Roles and Responsibilities are included in the policy statement.

### III. Definitions

- A. As defined by the United States Department of Health and Human Services Office of Research Integrity [42 CFR 93.103], **research misconduct** means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.
  - 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.

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3. **Plagiarism** is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
  4. Research misconduct does not include honest error or differences of opinion.
- B. For the purpose of this policy, a **conflict of interest** is defined as either 1) previous personal knowledge of or involvement in the matter forming the basis of the allegation of misconduct, or 2) any close personal, professional, or financial relationship with any participant in the inquiry or investigative process.

#### IV. Policy Statement

##### A. GENERAL POLICY

1. Metropolitan State University of Denver (hereafter referred to as "MSU Denver") promotes mutual respect, community engagement, scholarly inquiry, creative activity and the application of knowledge. In all of its research endeavors, MSU Denver adheres to the highest standards of ethical conduct to ensure the credibility and trustworthiness of research activities and to discourage misconduct. Misconduct in research represents a breach of the policies of MSU Denver, the standards held by sponsors and funding agencies, the federal regulations that govern the conduct of research, and the confidence and trust of the research community and the general public.
2. Therefore, it is the policy of MSU Denver that:
  - a. All University employees or agents have an obligation to report observed or suspected research misconduct;
  - b. The University conduct an inquiry and, if necessary, an investigation of any allegations of research misconduct;
  - c. The University ensure that inquires and investigations are conducted on an impartial basis and that individuals involved are expected to disclose any actual or potential conflicts of interest;

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- d. The University safeguard the reputations of those who are alleged to engage in research misconduct as well as those who make allegations of misconduct;
- e. The University prohibit retaliation of any kind against individuals who report suspected misconduct and individuals who serve as witnesses or deciding members in the inquiry or investigation processes;
- f. The University put forth all reasonable and practical efforts to protect or restore the position and reputation of any complainant, witness, or committee member and to counter potential or actual retaliation against these complainants, witnesses, and committee members;
- g. The University make all reasonable and practical efforts, if requested and as appropriate, 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;
- h. The University notify the federal Office of Research Integrity if at any time during a research misconduct proceeding, it has reason to believe that any of the following conditions exist:
  - i. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
  - ii. Federal resources or interests are threatened;
  - iii. Research activities should be suspended;
  - iv. There is reasonable indication of possible violations of civil or criminal law;
  - v. Federal action is required to protect the interests of those involved in the research misconduct proceeding;
  - vi. The research institution believes the research misconduct proceeding may be made public prematurely so that appropriate steps may be taken to safeguard evidence and protect the rights of those involved;
  - vii. The research community or public should be informed.

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- i. The University comply with reporting requirements of appropriate funding agencies, state and federal oversight entities, and law enforcement; and
  - j. If misconduct is proven, the University will invoke sanctions appropriate to the offense.
  
3. This policy applies to all individuals at MSU Denver engaged in research projects including those governed by federal funding regulations, and to any person paid by, under control of, or affiliated with MSU Denver, including administrators, faculty, students, guest researchers, and collaborators. The University will respond to each allegation of research misconduct for which it is responsible in a thorough, competent, objective and fair manner, including precautions to ensure that individuals charged with carrying out any part of the research misconduct proceeding do not have unresolved personal, professional or financial conflicts of interest with the complainant, respondent or witnesses. Cases of alleged research misconduct involving students are also subject to the normal disciplinary rules governing students, but will be reviewed, as appropriate, under the procedures described in this document. Student misconduct that falls outside of research is addressed in MSU Denver's Student Code of Conduct.
  
4. Ever cognizant of the implications for institutional integrity and reputation, the purpose of this policy is to provide uniform procedures for investigating and reporting allegations of research misconduct. This policy is also intended to conform to the requirements of the appropriate funding agencies pursuant to the U.S. Office of Research Integrity [45 CFR 689] and the Public Health Service Policies of Research Misconduct [42 CFR 93].
  
5. The University is committed to following all federal regulations, including but not limited to Department of Health and Human Services, Public Health Service regulations set forth in [42. CFR 93].

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6. The institution will inform research members participating in or otherwise involved in activities related to research or research training of its policies and procedures for responding to allegations of research misconduct, and the institution's commitment to compliance with policies and procedures.
  7. The institution fosters a research environment that promotes the responsible conduct of research, research training, and activities related to research or research training, that discourages research misconduct, and deals promptly with allegations or evidence of possible research misconduct.
- B. DEFINITION of RESEARCH MISCONDUCT, FINDINGS CRITERIA and TIME LIMITATIONS**
1. As defined by the United States Department of Health and Human Services Office of Research Integrity [42 CFR 93.103], *research misconduct* means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research **[1]**, or in reporting research results.
    - a. *Fabrication* is making up data or results and recording or reporting them.
    - b. *Falsification* is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.
    - c. *Plagiarism* is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
    - d. Research misconduct does not include honest error or differences of opinion.
  2. Criteria warrants an inquiry if the allegation falls within the definition of research misconduct; is within the scope of research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal for funds resulted in a grant, contract, cooperative agreement, or other form of support; and is sufficiently credible and specific so that potential evidence of research misconduct may be identified. The criteria for a finding of research misconduct require that:

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- a. There be a significant departure from accepted practices of the relevant research community; and
  - b. The misconduct be committed intentionally, knowingly, or recklessly; and
  - c. The allegation be proven by a preponderance of the evidence.
3. A finding of research misconduct is subject to a six-year time limitation from the date at which the institution or funding agency receives an allegation of research misconduct, with the exception of:
- a. Continuing or renewed misconduct within the six-year time limit through citation, republication or any other use of benefit to the respondent of any part of research found to have been fabricated, falsified, or plagiarized;
  - b. Or, if the alleged misconduct would possibly have substantial adverse effect on public health or safety.

#### C. ROLES and RESPONSIBILITIES

1. **President:** The Office of the President, in collaboration with the Office of the Provost, is responsible for overseeing the implementation of this policy.
2. **Research Integrity Officer (RIO):** The Provost, or designee, shall serve in the role of Research Integrity Officer for the purpose of this policy and shall be responsible for implementing this Policy and the specific procedures delineated herein.
  - a. The Provost will take all reasonable and practical steps to ensure the cooperation of respondents and other institutional members with the proceedings, including, but not limited to, the providing or information, research records and evidence.
  - b. The Provost will appoint the inquiry and investigation committees as defined herein, and ensure that necessary and appropriate expertise is secured to carry out a thorough and authoritative evaluation of the

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relevant evidence in inquiry or investigation. The Provost will attempt to ensure that confidentiality is maintained.

- c. Other duties of the Provost include, but are not be limited to, advising any person who is considering whether to submit an allegation of misconduct in research, providing guidance on the requirements of this policy and its procedures, coordinating the work of inquiry/investigation committees, notification and ongoing communication with the appropriate University officials **[2]** and administering the procedures included herewith.
  - d. The Provost is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files.
  - e. Throughout the research misconduct inquiry and investigation, the Provost will monitor the proceedings to determine if there is any threat or harm to public health, research support funds and equipment, or the integrity of the University research process. In the event of such a threat, the Provost will, in consultation with other institutional officials and the funding agency, take appropriate interim action to protect against any such threat.
3. **Complainant:** The Complainant is the individual who submits an allegation of misconduct in research to the campus Research Integrity Officer.
- a. The Complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation as defined in this policy. The Complainant will have an opportunity to testify before inquiry or investigation committees (as defined later in this policy) convened to evaluate allegations of research misconduct.
  - b. This individual shall have the right, to review portions of the inquiry and investigation reports pertinent to his/her allegations or testimony, to correct errors or provide comment on transcripts and reports, to be informed of the results of the inquiry and investigation, and to be protected from retaliation. Also, if the Provost has determined that the



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Complainant may be able to provide pertinent information on any portions of the draft report, these portions will be given to the Complainant for comment.

4. **Respondent:** The Respondent is any person against whom an allegation of research misconduct has been made.
  - a. 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 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 receive the advice of counsel.
  - b. The Respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry or investigation.
  - c. Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the Respondent(s) in the inquiry or investigation and maintain confidentiality to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry or investigation.
  - d. Institutional employees accused of research 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 and may bring the counsel or personal adviser to interviews or meetings on the case.
  - e. The University will undertake diligent efforts to protect the positions and reputations of those persons against whom allegations are made until the Deciding Official has determined an appropriate institutional response.
  
5. **Deciding Official (DO):** The Deciding Official is the institutional official who receives the investigative report from a convened inquiry or investigation committee on research misconduct and determines the appropriate institutional response.

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- a. The Provost shall designate an individual as the Deciding Official. Usually the person appointed to this role should be a member of the University President's cabinet unless the unique circumstances of an allegation merit a lower ranking position with skills or experience specific to a given case.
  - b. In no case shall the DO be the same person as the Provost. The Provost shall consider any potential conflicts of interest, the nature of the allegations, and the position of the Respondent in the decision to appoint an individual as the Deciding Official.
6. **General Counsel:** The Provost, DO, inquiry committee, and investigation committee may seek advice and guidance from the General Counsel as is necessary. The Provost shall notify the General Counsel of the meetings of the inquiry or investigation committees and provide minutes of such proceedings. General Counsel may attend, or send a representative to attend, any committee meetings on research misconduct if he/she considers that such attendance is in the best interests of the University.

#### D. INQUIRY PROCEDURES

1. Allegations of research misconduct may be submitted via phone, email, campus mail, U.S. postal mail, or in-person.
2. So as not to deter individuals from reporting concerns about the conduct of research, the University will accept allegations anonymously.
  - a. In the case of anonymous allegations, the University becomes the Complainant by proxy. However, individuals should be informed, when possible, that reports made anonymously could seriously limit the ability of the University to verify the allegation, investigate the details of the occurrence, make a determination of misconduct, and/or

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recommend and enforce corrective actions.

3. Upon notification of an allegation of research misconduct, the Research Integrity Officer will promptly assess the allegation to determine if there is a preponderance of evidence **[3]** of research misconduct that would merit a formal inquiry. If the Provost determines that the allegation merits further examination, the inquiry process will immediately commence.
  - a. To the extent the University has not already done so at the allegation stage, the Provost shall, on or before the date on which the Respondent is notified or the inquiry begins, whichever is earlier, promptly 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.
  - b. General Counsel may aid in determining what records or other evidence are appropriate for this purpose. Any documents or records obtained in pursuit of this investigation shall be inventoried and secured in the custody of the Provost.
  - c. At the time of or before beginning an inquiry, the Provost will make a good faith effort to notify the presumed Respondent that an inquiry into the allegation is to be conducted. If the inquiry subsequently identifies additional respondents, the Provost will notify them. Such notification shall include a statement of the allegation, reference to this research integrity policy, and communication of the Respondent's right to representation by legal counsel.
  
4. Within fifteen (15) business days of the notification of the Respondent of the allegation, the Provost, in consultation with appropriate University officials, shall

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appoint an inquiry committee of no less than three members with the appropriate expertise to evaluate the allegation.

- a. At least two of the members of the inquiry committee shall be tenured faculty members of Metropolitan State University of Denver. To the extent possible, one member should represent the academic field or cognate discipline from which the Respondent was conducting the research subjected to this inquiry.
5. Within five (5) business days of the selection of this inquiry committee, the Respondent shall be notified of the membership of this committee.
    - a. The University shall take precautions to ensure that individuals selected to serve on the investigation committee do not have unresolved personal, professional, or financial conflicts of interest with the complainant, respondent, or witnesses.
    - b. The Respondent shall have the right to strike no more than one member of the inquiry for any reason, unless evidence exists of a conflict of interest or potential conflict of interest between the Respondent and the committee member.
    - c. Any other objections to the inquiry committee composition by the Respondent must be accompanied with a written explanation of potential bias or conflict of interest in an inquiry committee member for evaluation by the Provost and appropriate University officials.
    - d. Any changes to the inquiry committee shall occur only with agreement of a majority of the officials appointing the inquiry committee. In the event that the appointing officials cannot agree on a replacement, the Provost shall have the authority to implement a change to the inquiry committee.
  6. The inquiry shall minimally consist of interviews of the Complainant, the Respondent, and any witnesses identified by either party or through examination of relevant research records.

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- a. Any interviews shall be tape recorded and transcribed. The transcripts of interviews shall be provided to the interviewees for comment or revision and included as a part of the inquiry record.
  - b. The Respondent and Complainant shall have the right to at least five (5) business days advance notice of the interview in order to prepare for the interview. In addition, the Respondent shall have the right to representation by legal counsel as a part of any interview undertaken as a part of the inquiry.
7. The inquiry committee shall also review all research records and materials obtained by the Provost.
  8. The inquiry committee shall evaluate the evidence and testimony obtained during the inquiry and consult with the Provost and General Counsel to arrive at a decision as to the preponderance of evidence of possible research misconduct meriting further investigation. The inquiry shall not include a decision as to the actual occurrence of misconduct but instead deliver a recommendation for further investigation.
  9. The inquiry shall be completed as quickly as possible within sixty (60) calendar days after its initiation. Should the inquiry require additional time beyond the 60 days specified herein, the Respondent, Complainant, Provost, DO, and appropriate University officials shall be notified of the need for additional time along with documentation of the reasons for such additional time.
  10. The results of the inquiry shall be documented in a written report that includes the following items:
    - a. The name and position of individuals against which allegations of misconduct were asserted;
    - b. A full description of the alleged research misconduct;
    - c. A summary of the inquiry process used and of the evidence reviewed;

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- d. A summary of interviews undertaken as a part of the inquiry; 4.10.5. Any rebuttal offered by the Respondent; and
  - e. The committee's determination as to the basis for concluding that an investigation is or is not warranted. If no investigation is recommended the report should describe any other actions recommended to address the alleged activity.
11. The inquiry committee will submit a draft inquiry report for comment by the Provost, the Complainant, and the Respondent.
    - a. Within ten (10) business days of receipt of the draft inquiry report, all individuals reviewing the draft must provide any comments that will be added to the final inquiry report.
  12. The final inquiry report, inclusive of any additional comments, shall be completed within five (5) business days and submitted to the Deciding Official. The DO shall seek the advice of General Counsel as needed to render a decision on the inquiry within fifteen (15) business days of receipt of the final inquiry report. Once the decision is made, the DO shall immediately notify the Provost.
  13. The Provost will notify the Complainant, Respondent, and appropriate University officials of the DO's decision to proceed with an investigation or close the inquiry. The Provost will also be responsible for any other notification of individuals deemed appropriate after review with General Counsel.

#### E. INVESTIGATION PROCEDURES

1. In the event that the Deciding Official elects to proceed with an investigation, the following procedure shall be applied. An investigation is warranted if there is:
  - a. A reasonable basis for concluding that the allegation falls within the definition of research misconduct under this part and involves PHS

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- supported biomedical or behavioral research, research training or activities related to that research or research training, as provided in [42 CFR 93.102]; and
- b. Preliminary information-gathering and preliminary fact-finding from the inquiry indicates that the allegation may have substance.
2. As applicable, within thirty (30) days of finding that an investigation is warranted, the Provost must provide the written finding and a copy of the inquiry report to funding agencies or other relevant entities, as required, including but not limited to the Office of Research Integrity.
    - a. The report must include:
      - i. The name and position of the respondent;
      - ii. A description of the allegations of research misconduct;
      - iii. All support, including, for example, grant numbers, grant applications, contracts, and publications listing support;
      - iv. The basis for recommending that the alleged actions warrant an investigation; and
      - v. Any comments on the report by the respondent or the complainant.
    - b. The Provost must provide the following information, on request:
      - i. The institutional policies and procedures under which the inquiry was conducted;
      - ii. The research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and
      - iii. The charges for the investigation to consider.
  3. To the extent the University has not already done so at the allegation or inquiry stages, the Research Integrity Officer shall 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

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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. The Provost shall take custody of additional records whenever additional items become known or relevant to the investigation.

4. The Research Integrity officer shall notify the respondent in writing of the allegations within a reasonable amount of time after determining that an investigation is warranted, but before the investigation begins. The Provost shall 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 investigation.
5. The Research Integrity Officer, in consultation with appropriate University officials, shall appoint an investigation committee of no less than five members with the appropriate expertise to evaluate the allegation as specified earlier in this policy.
  - a. The University shall take precautions to ensure that individuals selected to serve on the investigation committee do not have unresolved personal, professional, or financial conflicts of interest with the complainant, respondent, or witnesses.
  - b. At least three of the members of the investigation committee shall be tenured faculty members of Metropolitan State University of Denver. To the extent possible, one member should represent the academic field or cognate discipline from which the Respondent was conducting the research subjected to this investigation.
  - c. Individuals appointed to the investigation committee should not have been involved with the inquiry proceedings, either as appointed committee members or as witnesses.
6. Within five (5) business days of the selection of this investigation committee, the Respondent shall be notified of the membership of this committee.



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- a. The Respondent shall have the right to strike no more than one member of the investigation committee for any reason, unless evidence exists of a conflict of interest or potential conflict of interest between the Respondent and the committee member.
  - b. Any other objections to the investigation committee composition by the Respondent must be accompanied with a written explanation of potential bias or conflict of interest in a committee member for evaluation by the Provost and appropriate University officials.
  - c. Any changes to the investigation committee shall occur only with agreement of a majority of the officials appointing the committee members. In the event that the appointing parties cannot agree on a replacement, the Research Integrity Officer shall have the authority to implement a change to the investigation committee.
7. Once convened, the investigation shall commence within twenty (20) business days. The investigation committee shall review evidence gathered by the Provost, interviews conducted as a part of the inquiry and other records used in that process, and determine if additional records are required.
- a. The Provost will then notify the Respondent if additional records are required, will obtain such records, and will add them to the inventory of evidence to be reviewed concerning the allegation.
  - b. The investigation committee shall then review any additional evidence gathered and if possible, conduct additional interviews of the Complainant, Respondent, and any other individuals who may have information pertinent to the alleged misconduct.
  - c. Such interviews shall be tape recorded and transcribed. The transcripts of interviews shall be provided to the interviewees for comment or revision and included as a part of the investigation record.
  - d. The Respondent and Complainant shall have the right to at least five (5) business days advance notice of the interview in order to prepare for the interview. In addition, the Respondent shall have the right to representation by legal counsel as a part of any interview undertaken as a

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part of the investigation.

8. Should additional expertise be required to fairly evaluate evidence presented in connection with the alleged research misconduct, the investigation committee shall be empowered to retain outside expertise to assist the investigation.
  - a. Any such external reviewer shall be obligated to maintain the confidentiality of the investigation and review only evidence gathered by the investigation committee for evaluation of the alleged misconduct.
  - b. The Respondent shall be notified of any such use of external resources but shall not have the right to object thereto.
  
9. The investigation committee shall consider all evidence gathered and presented with respect to the alleged research misconduct and make a determination that research misconduct has occurred. A minimum of a majority vote of the members of the investigation committee shall be required for the determination reported by the committee.
  
10. Upon arrival at such determination, the committee shall prepare a draft report of the investigation that includes at a minimum, the following elements:
  - a. The name and position of individuals against which allegations of misconduct were asserted;
  - b. A full description of the alleged research misconduct;
  - c. A detailed description of the investigation process used and of the evidence reviewed;
  - d. A detailed description of interviews undertaken as a part of the investigation;
  - e. A detailed description of other evidence reviewed, results of that review, and conclusions arrived from review of that evidence;
  - f. Any rebuttal offered by the Respondent; and
  - g. The committee's determination as to the basis for concluding that research misconduct occurred or not. If no finding of misconduct is noted, the report should describe any other actions recommended to

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address the allegation.

11. If a finding of misconduct is made, the following elements must be described:
  - a. Describe the action as a falsification, fabrication or plagiarism and to the extent possible identify if it was intentional, knowing, or in reckless disregard;
  - b. Address the merits of any explanation, evidence, or rebuttal provided by the Respondent;
  - c. Identify any publications arising from the misconduct that require correction or retraction;
  - d. Specify the person or persons responsible for the misconduct; and
  - e. Specify any external parties or funding sources impacted by the finding.
  
12. The investigation shall be completed within one hundred twenty (120) calendar days inclusive of conduct of the investigation, preparation of report findings, submission of draft investigation report, and incorporation of any subsequent comments. If the investigation committee requires additional time, the reasons for delay should be documented as a part of the final report.
  
13. The investigation committee will submit a draft investigation report for comment by the Provost, the Complainant, the Respondent, and General Counsel.
  - a. Within ten (10) business days of receipt of the draft investigation report, all individuals reviewing the draft must provide any comments that will be added to the draft investigation report.
  
14. The University shall give the respondent a copy of the draft investigation report and, concurrently, a copy of, or supervised access to, the evidence on which the report is based.

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15. The University may provide the Complainant a copy of the draft investigation report or relevant portions of that report.
  
16. The final investigation report shall include:
  - a. A description of the nature of the allegations of research misconduct;
  - b. A description and documentation of all support, including federal support, for example, any grant numbers, grant applications, contracts, and publications listing the support;
  - c. Description of the specific allegations of research misconduct for consideration in the investigation;
  - d. The University policies and procedures under which the investigation was conducted;
  - e. Identification and summary of the research records and evidence reviewed, and any evidence taken into custody but not reviewed;
  - f. A Statement of Findings for each separate allegation of research misconduct identified during the investigation, including a finding as to whether research misconduct did or did not occur, and if so:
    - i. Identification of the research misconduct as a falsification, fabrication or plagiarism, and if it was intentional, knowing, or reckless disregard;
    - ii. A summary of the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the Respondent;
    - iii. Identification of specific federal support;
    - iv. Identification of any publications need correction or retraction;
    - v. Identification of person(s) responsible for the misconduct; and
    - vi. A list of any current support or known applications or proposals for support that the Respondent has pending with federal agencies.
  - g. Any comments on the draft report made by the Respondent and Complainant.

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17. The final investigation report, inclusive of any additional comments, will be submitted to the Deciding Official. The DO, in consultation with University officials, will render a decision on research misconduct within fifteen (15) business days of receipt of the final investigation report.
18. A finding of research misconduct requires that:
  - a. There be a significant departure from accepted practices of the relevant research community;
  - b. The misconduct be committed intentionally, knowingly, or recklessly; and
  - c. The allegation be proven by a preponderance of evidence.
19. The University shall keep sufficiently detailed documentation of inquiries to permit a later assessment by federal Office of Research Integrity of the reasons why the institution decided not to conduct an investigation. Consistent with [42 CFR 93.317], the University shall keep these records in a secure manner for at least seven years after the termination of the inquiry, and upon request, provide them to the Office of Research Integrity or other federally authorized personnel.

#### F. ADMISSIONS OF RESEARCH MISCONDUCT

1. There is no requirement under this policy to commence or continue an inquiry or investigation if a Respondent admits to conduct that constitutes research misconduct. At any time during this process, an admission may be forwarded to the Provost or DO. If this occurs, only the procedure for determining corrective actions and/or sanctions need occur.

#### G. NOTIFICATIONS and REPORTING

1. The University shall carry inquiries and investigations through to completion and pursue diligently all significant issues. The institution will notify the federal Office

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of Research integrity in advance if the institution plans to close a case at the inquiry, investigation, or appeal stage on the basis that the respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except the closing of a case at the inquiry stage on the basis that an investigation is not warranted or a finding of no misconduct at the investigation stage, which must be reported to ORI under [42 CFR 93.315].

2. Pursuant to 42 CFR 93.316, the Provost will ensure compliance with all notification requirements of funding or sponsoring agencies, including notice to the Office of Research Integrity on investigatory reports.
3. The federal Office of Research Integrity may, after consultation with the University, conduct an oversight review of the University's handling of the case and take appropriate action including:
  - a. Approving or conditionally approving closure of the case;
  - b. Directing the University to complete its process;
  - c. Referring the matter for further investigation by the appropriate federal entity; or
  - d. Taking a compliance action.
  - e. The University shall provide the federal Office of Research Integrity with:
    - f. A copy of the final report, all attachments and any appeals;
    - g. A statement of whether research misconduct was found, and if so, who committed the misconduct;
    - h. A statement of whether the University accepts the investigation's findings; and
    - i. A description of any pending or completed administrative actions against the Respondent.
4. Throughout the processes of inquiry and investigation, the Provost, in collaboration with University officials, is responsible for ensuring timely compliance with all reporting requirements to local, state, and federal funding

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and oversight agencies.

5. The Provost will notify both the Respondent and the Complainant in writing of any final outcomes of the investigation procedures and determinations from University officials. The Provost will also be responsible for any other notification of individuals deemed appropriate after review with General Counsel.
6. Notifications of the final determinations of an investigation may be made to MSU Denver and external individuals or entities as needed and/or as required by law.
7. MSU Denver entities that may be notified of outcomes include, but are not limited to, Administration Officials, Deans, Department Chairs, the Student Conduct Officer, the Institutional Review Board (IRB), and the Institutional Animal Care and Use Committee (IACUC).
8. External entities may include, but are not limited to, law enforcement agencies, the Office of Research Integrity (ORI), funding 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 that may be impacted by the outcome of the investigation.

#### H. OUTCOMES

1. If a finding of research misconduct is determined, the DO, in consultation with University officials, will determine corrective actions and/or sanctions, if any, to remedy the misconduct and to prevent similar misconduct in the future. The Provost will coordinate with the appropriate University officials to implement corrective actions or sanctions.

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2. Corrective actions and sanctions should be commensurate with the severity of the research misconduct. These may include, but are not limited to:
  - a. Removal of the Respondent(s) from the particular project, a letter of reprimand, and/or special monitoring of future work;
  - b. Suspension or termination of research activities;
  - c. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found;
  - d. Restitution of funds to the grantor agency as appropriate;
  - e. Adjudication for a faculty or staff respondent in violation of the standards of professional conduct described in the Handbook for Professional Personnel.
  - f. Adjudication for a student respondent through the Student Conduct Process outlined in the Student Code of Conduct.
  
3. Those found responsible for research misconduct may file an appeal in writing with the Provost within fifteen (15) business days of notification of final outcome to the respondent.
  
4. Appeals may be based on one of the following criteria:
  - a. To determine whether the original investigation process was conducted fairly in light of the allegations and evidence presented and in conformity with prescribed procedures, giving the Respondent a reasonable opportunity to prepare and to present a rebuttal of those allegations;
  - b. To determine whether the decision reached regarding the Respondent was based on substantial evidence; that is, whether the facts in the case were sufficient to establish that a violation did occur;
  - c. To determine whether the sanction(s) imposed were appropriate for the misconduct the Respondent was found to have committed; or
  - d. To consider new evidence sufficient to alter a decision or other relevant facts not brought out in the original investigation because the Respondent did not know such evidence and/or facts at the time of the



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original investigation.

5. The Provost, in consultation with appropriate University officials, shall appoint an appeal committee of no less than three members with appropriate expertise who were not previously involved in the inquiry or investigation proceedings, either as committee members or as witnesses.
6. The appeals committee should complete its evaluation of the records, reports, and evidence and present its determination to the Provost within twenty (20) days after the committee was formed, unless circumstances clearly require a longer period.
7. If a Respondent does not file a timely appeal in response to a finding of research misconduct, or if an appeals committee upholds one or more findings of research misconduct from the final investigation report, corrective actions and/or sanctions will be implemented accordingly.
8. If the outcome of the investigation process is a determination that no research misconduct has occurred, any and all original research materials will be restored to the Respondent(s). The Provost, DO, and University officials will undertake all reasonable and practical efforts to protect and restore the reputation of any Respondent(s) and to maintain the integrity of the research where no finding of research misconduct is made.

#### I. RECORD RETENTION

1. All records pertaining to the allegation, inquiry, and investigation, including the final report will be maintained in the Office of Sponsored Research and Programs for a minimum of three (3) years from the completion of the investigation process, or longer if requested or required by federal funding or oversight agencies.

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**NOTES**

[1] *Under federal regulations 45 CFR 46.102, research is defined as “a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.” MSU Denver reserves the right to more broadly define research to include forms of scholarship and creative activities within the responsibilities of faculty, staff, or students that are designed as original works or are intended to contribute to generalizable knowledge in a field of academic inquiry.*

[2] *Examples of University officials with a legitimate need to know may include individuals from the Office of the President, the Office of the Provost, Student Conduct and Conflict Resolution Services for allegations involving students, Faculty Senate in the instance of an allegation against a faculty member, Classified Staff Council or Council of Administrators for allegations involving a staff member, the Institutional Review Board (IRB) for allegations involving human subjects research, and the Institutional Animal Care and Use Committee (IACUC) for allegations involving animal research.*

[3] *Federal regulations 42 CFR 93.219 defines a preponderance of the evidence as “proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.”*

**V. Related Information**

- A. US Office of Research Integrity, 45 CFR 689
- B. Public Health Service Policies on Research Misconduct, 42 CFR 93
- C. Student Code of Conduct

**VI. History**

- A. **Effective:** 2014
- B. **Approved by:** Provost