ETHICAL CONDUCT IN RESEARCH, SCHOLARSHIP, AND CREATIVE ACTIVITY

I. INTRODUCTION

The integrity of the research process is an essential aspect of a university's intellectual and social structure. Research is defined as all research, scholarship, and creative activity that support the intellectual endeavors of the University. Although incidents of misconduct in research may be rare, those that do occur threaten the entire research enterprise.

The integrity of the research process must depend largely upon self-regulation. Formalization of the rights and responsibilities of the University of North Dakota and faculty/staff members in conducting research and producing creative activity are imperative. The University is responsible for promoting practices that prevent misconduct and also for developing policies and procedures for dealing with allegations or other evidence of fraud or serious misconduct. All members of the University community, including students, staff, faculty, and administrators, share responsibility for developing and maintaining standards to assure ethical conduct in research and the detection of any abuse of these standards.

It is important to create an atmosphere that encourages openness and creativity. Good and innovative research cannot flourish in an atmosphere of oppressive regulation. Moreover, it is particularly important to distinguish misconduct in research, scholarship, and creative activity from the honest error and the ambiguities of interpretation that are inherent in the research/creative process and that are normally corrected by further research and study. The following policies and procedures apply to faculty, staff and students, in certain circumstances (see Section IV.A). They are not intended to address all academic issues of an ethical nature such as discrimination and affirmative action which are covered by other University policies.

Inquiries regarding this Policy may be directed to the Research Development and Compliance office.

II. ETHICAL STANDARDS

The primary way to encourage appropriate conduct in research and scholarship at the University of North Dakota is for the faculty and staff to promote and maintain a climate
consistent with high ethical standards. To reduce the likelihood of misconduct and promote high quality in research, scholarship and creative activity, the faculty and administration should promote and facilitate the following:

A. Encouragement of Intellectual Honesty
Because of the importance of a climate of intellectual honesty in a university community, a commitment to the ethical responsibilities of academia by all of its members is essential. This commitment is evidenced by adherence to such common practices as submission of work to peer review, avoidance of conflict of interest, scholarly exchange of ideas and data, and self-regulation. Mentor relationships between academic leaders and new practitioners serve to enhance the transmission of ethical standards.

B. Acceptance of Responsibility by Research Supervisor
University policies must define a focus of responsibility for the conduct of research and must ensure that the individual(s) charged with the supervision of researchers can realistically execute the responsibility. These supervisors of research should be experienced academicians who serve as mentors in transmitting the ethics and responsibilities underlying scientific and humanistic research. The larger the research team, the more critical the role of the supervisor in promoting open communication and scholarly exchange of ideas, data, and results and in assuming responsibility for the conduct and outcomes of the research process. It is also the responsibility of the supervisor to review and publish as much primary data as possible.

C. Establishment of Well-Defined Research Procedures
Well-designed and strictly adhered to research methods are a deterrent to fraud. Bias in data analysis and interpretation can be avoided by following practices that are common to the disciplines.

D. Appropriate Assignment of Credit and Responsibility
Authors or creators should recognize the contributions of others through adequate citation and/or acknowledgment. They should also name as authors or creators only those who have had a genuine role in the research or creative activity and who accept responsibility for the quality of the work being reported or presented.

III. DEFINITIONS

A. Misconduct in Research and Scholarship
Misconduct in research and scholarship means any form of behavior which entails research fraud, scientific misconduct, or an act of deception whereby one's work or the work of others is misrepresented. Misconduct in research, scholarship and creative activity is distinguished from honest error and from ambiguities of interpretation that are inherent in the research/creative process. The principal element of misconduct in research, scholarship and creative activity is the intent to deceive others or misrepresent one's work. Misconduct involves
significant breaches of integrity, which may take numerous forms such as, but are not limited to, those outlined below:

a. Falsification of Data.  
Falsification of data means activities ranging from fabrication to deceptive or selective reporting of findings and includes the omission of conflicting data, the willful suppression of data and/or the distortion of data with the intent to falsify results.

b. Plagiarism.  
Plagiarism means the misappropriation of the work of another or one’s own work and its misrepresentation as one’s own original work. Examples of academic dishonesty include, without limitation, the following: (1) Verbatim, word-for-word lifting of words without quotation marks and without sources citation; (2) Verbatim, word-for-word lifting of words without quotation marks but with source citation; (3) Paraphrasing words or using ideas without citing to the source; (4) Verbatim, word-for-word lifting of words from the article or paraphrasing of those words from the article without citing to the article, but citing to the sources cited by author in the article; (5) Lifting an article’s structure and organization without attribution; and (6) Paraphrasing a sentence in such a way that with the replacement of several words, it should be quoted. Plagiarism does NOT require intent. In other words, ignorance is not an excuse.

c. Improprieties of Authorship.  
Improprieties of authorship means the improper assignment of credit, such as excluding other authors; inclusion of individuals as authors who have not made a definite contribution to the work; or submission of multi-authored publications without the knowledge of all authors.

Misappropriation of the intellectual property of others means the unauthorized use of proprietary or private information (such as violation of confidentiality in peer review), however obtained.

e. Violation of Generally Accepted Research Practices. Violation of generally accepted research practices includes deceptive practices in proposing, conducting, or reporting research. This definition is expanded to include all federal and state funded activities, not just research activities.

f. Inappropriate Behavior in Relation to Misconduct. Inappropriate behavior in relation to misconduct includes unjust and malicious accusation(s) of misconduct; failure to report misconduct; withholding or destruction of information relevant to a claim of misconduct in research and scholarship; or retaliation against persons involved in the allegation
or investigation in research and scholarship who have not acted in bad faith.

B. Complainant
Complainant means an individual who brings an allegation(s) of misconduct.

C. Respondent
Respondent means an individual against whom an allegation(s) of misconduct is made.

D. Number of days to complete.
Calculated in working days.

E. Members of the University Community
Members of the University community means all faculty, staff, and students, both full and part time, who are affiliated with the University of North Dakota.

F. Inquiry
Inquiry means information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation. This is a paper review based on the documentation received by the Vice President and questions submitted by the Inquirer to either the Complainant or Respondent for clarification. After review of all of the documentation including the written responses from the Complainant and Respondent, a determination may be made that follow-up interviews with the Complainant or Respondent may be necessary to complete the Inquiry.

G. Inquirer
Person performing an Inquiry.

H. Investigation
Investigation means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred.

I. Committee of Investigation
Three-member panel used as fact-finders in the third phase of investigation. The CoI conducts interviews to obtain information necessary to make a determination regarding the allegations.

IV. GENERAL PROVISIONS

A. Allegations Involving Students
Allegations of misconduct against students will be handled according to policies in the University of North Dakota Code of Student Life, with the following modification: if a student against whom an allegation is lodged serves in a research assistant capacity and is supported in that position by University administered funds, the allegation must be reported to the Vice President for
Academic Affairs/Provost (VPAA) or Vice President for Research (VPR) who will make the decision as to whether the complaint should be handled in accordance with the procedures as stipulated in the Code of Student Life or the procedures as provided in this Policy. If the decision is to proceed utilizing the Code of Student Life process, each step of the process must be coordinated with the VPAA or VPOR or a designee in order to assure compliance with the procedures for time lines, decisions, and sanctions as prescribed in this Policy.

B. Principles
The following principles shall guide the review of allegations of misconduct in research, scholarship, and creative activity at the University of North Dakota:

1. The process must avoid damage to research, scholarship, or creative activity.

2. The University will provide vigorous leadership in the pursuit and resolution of all charges.

3. Process will be provided to all parties under University of North Dakota and State Board of Higher Education policies and procedures. All parties will be fairly treated and their reputations guarded by providing confidentiality to the extent possible under University and Board policies and procedures, applicable state and federal requirements, and the North Dakota Open Records Act.

4. The integrity of the process will be maintained by painstaking avoidance of conflicts of interest.

5. Charges will be resolved as expeditiously as possible.

6. The University will document the pertinent facts and actions at each stage of the process.

7. The University will pursue allegations within the scope of this Policy without regard to whether related civil or criminal proceedings have been initiated. The University may, at its option, suspend the inquiry/investigation temporarily but is not under obligation to do so, as the standards of the University may differ from the courts.

8. To the extent feasible and reasonable, the University will pursue the allegation of misconduct to its conclusion, even if the accused individual leaves or has left the University before the matter is resolved.

5.6 ETHICAL CONDUCT IN RESEARCH, SCHOLARSHIP AND CREATIVE ACTIVITY
V. Allegations of Misconduct

A. Reporting Allegations
Initial allegations may be reported, in writing, to any faculty member or administrator. All such allegations must then be reported to the Vice President for Research or a designee. The term “the Vice President for Research” in the balance of this document shall mean “the Vice President for Research (VPR) or a designee.” Generally, the designee will be the Research Integrity Officer if that individual is not the VPR. The VPR will determine whether the allegations concern research, scholarship, or creative activity which is either being presently funded with federal or state funds or has been used in a grant proposal to a federal or state agency. The VPR will determine, in consultation with others if necessary, whether the person alleged to have committed scientific misconduct has external support that is reportable to the Office of Research Integrity (ORI). If the allegations concern research, scholarship, or creative activity with actual or potential federal or state funding, the procedures outlined in 5.6.V-VIII will be followed. If the allegations do not involve actual or potential federal or state funding, the procedures outlined in section 5.6.IX-XII of this Policy will be followed.

B. Pre-Inquiry Review by the Vice President for Research (federal or state funding)
The VPR shall review, during the pre-inquiry stage, any allegation of misconduct in research, scholarship and creative activity and then determine whether:

1. the allegation is within the purview of this Policy;
2. other policies and procedures, such as those relevant to employment grievances, should be invoked;
3. the allegation is outside the purview of the University; or
4. the allegation is clearly without substance.

If the VPR has a possible conflict of interest, the allegations will be referred to the VPAA of the University. If an Inquiry is determined to be unwarranted, the VPR shall prepare an internal memorandum-for-file including a statement of the allegation and the rationale for not conducting an inquiry. This memorandum shall be kept secure and destroyed, pursuant to the University’s records retention policy, six years after completion of the matter. A copy shall be given to the Respondent.

If an Inquiry is determined to be warranted, the VPR will counsel the individual(s) bringing the allegation as to the policies and procedures to be used. If the reporting individual chooses not to make a formal allegation but the VPR
believes that enough information exists to warrant an inquiry, the Inquiry process will be initiated.

C. Notification of Respondent (federal or state funding)
In the event the VPR determines that the allegation has been reviewed according to these policies and procedures, the VPR, within 20 working days of receipt of an allegation, shall:

1. complete the pre-inquiry review;
2. notify the Respondent and the appropriate Dean(s) of the allegation;
3. notify all parties of the procedures that will be used to examine the allegation; and
4. notify all parties of the proposed individual responsible for the Inquiry (Inquirer) review [VI.B.1], and ask all parties to identify any real or potential conflict of interest between the proposed Inquirer and the parties involved in the allegation.

VI. Inquiry Phase (federal or state funding)

A. Purpose (federal or state funding)
After review by the VPR and an assessment that there is the possibility of misconduct under this Policy, the VPR will initiate an Inquiry, which is the second step in the review process. In the Inquiry phase, factual information will be gathered and expeditiously reviewed to determine whether or not a further investigation of the charge (Investigation phase) is warranted. The Inquiry phase is designed to separate allegations deserving of further investigation from frivolous, unjustified, or clearly mistaken allegations.

B. Process and Structure (federal or state funding)

1. After a decision has been made to proceed with an Inquiry, the VPR will appoint an individual to conduct the Inquiry. That person, the Inquirer, must be a tenured faculty member at the rank of associate or full professor who is without conflict of interest and has appropriate expertise to evaluate the information relative to the case.

2. The VPR will provide the individual conducting the Inquiry and the Respondent with copies of all relevant documents. During the Inquiry, the VPR and the individual conducting the inquiry will be responsible for the security of relevant documents. Originals of all documents and related

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1 Memo #1 Notification of Inquiry (federal or state funding)
communications are to be securely maintained in the Office of the Vice President for Research pursuant to the records retention policy.

3. Responsibilities of the individual conducting the Inquiry

   a. Records of the Inquiry are to be kept and, at the end of the Inquiry, transferred to the VPR. The records are to be kept secure, and if no misconduct is found, the records should be destroyed six years after completion of the entire process.

   b. If there is a need for interviews, the interviews must be tape-recorded and, upon request, made available to involved parties after the final decision in the entire process is made.

   c. Information, expert opinions, records, and other pertinent data may be requested by the Inquirer. All involved individuals are expected to cooperate with the Inquirer by supplying such requested documents and information.

   d. The Inquiry phase will be completed within 60 working days of its initiation unless the individual conducting the inquiry determines that circumstances clearly warrant an extension of time. In such circumstances, the Inquirer will advise the VPR who, in turn, will notify all relevant parties of the extension. The record of the Inquiry will include the rationale for exceeding the 60-working-day period.

   e. As the Inquiry is intended to be expeditious, principals are expected to speak for themselves but may be accompanied by a representative for advice and counsel.

C. As the University is responsible for protecting the health and safety of research subjects, students, and staff, interim administrative action prior to conclusion of either the Inquiry or the Investigation may be indicated. Such action ranging from slight restrictions through complete suspension of the Respondent or the Respondent’s research and notification of external sponsors, if indicated, will be initiated by the VPR in collaboration with the VPAA.

D. Findings (federal or state funding)

   1. The completion of an Inquiry is marked by a determination of whether or not an investigation is warranted, thus if warranted invoking the investigation phase. The individual conducting the Inquiry shall not recommend that an investigation occur unless he/she concludes, based on the sufficient information for each allegation, that the allegation(s) have merit to call for an investigation. The report of the individual conducting the Inquiry will be conveyed in writing to the VPR who will be responsible
for communicating the findings to the Respondent within 10 working days of receipt of the report. The report of the individual conducting the inquiry shall specify the information that was reviewed, summarize relevant interviews, and include the conclusions of the Inquiry. The Respondent shall be given the opportunity to comment in writing upon the findings and recommendations of the individual conducting the Inquiry. If the Respondent chooses to comment, such comments shall be forwarded as soon as possible but no later than 20 working days from the date of notification of the findings by the VPR. The VPR will notify the Respondent in writing, by certified mail, return receipt requested. The Respondent’s comments will become part of the Inquiry record.

2. If an allegation is found to be unsupported but has been submitted in good faith, no further action, other than informing all involved parties, will be taken. Reasonable efforts will be taken to protect the standing and the reputations of both the person(s) making the allegation(s) and the Respondent(s).

3. If the individual conducting the Inquiry finds the allegations to be unjust and malicious, the Inquirer will report those findings to the VPR. At that time, the VPR may take such actions, or impose such sanctions, as are appropriate to the situation. The University will take reasonable steps to restore the academic reputation of the person whose conduct was the subject of the Inquiry.

4. If the outcome of the Inquiry indicates the need for a formal investigation, the individual conducting the Inquiry will communicate those findings to the VPR. If the VPR concurs with the recommendation of the individual conducting the Inquiry, the VPR, after notification to the appropriate Dean(s), the Vice President for Academic Affairs, and legal counsel, will initiate the Investigation phase. The VPR, through the Research Integrity Officer for the University, must notify any sponsoring agency or funding source, including the ORI at a time prior to the initiation of an Investigation. Factors to be considered in determining the timing of such notification include the following:

   a. There is an immediate health hazard involved.

   b. There is an immediate need to protect federal or state funds or equipment.

   c. There is an immediate need to protect the interests of the person(s) making the allegations or the individual(s) who is the subject of the allegations as well as co-investigators and associates, if any.

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2 Memo #2 Inquiry into Professional Misconduct (federal or state funding)
d. It is probable that the alleged incident will be reported publicly. Or 

e. There is a reasonable indication of possible criminal violation.

VII. **Investigation Phase** (federal or state funding)

A. **Purpose** (federal or state funding)
An Investigation will be initiated when the individual conducting the Inquiry issues a finding that an Investigation is warranted and the VPR concurs with that recommendation. The purpose of investigation is to explore further the allegations and determine whether misconduct in research and scholarship has been committed. The Investigation will focus on accusations of misconduct as defined previously and analyze the factual materials of each case. In the course of an Investigation, additional information may arise that justifies broadening the scope of the Investigation beyond the initial allegations. The Respondent will be informed in writing when significant new directions are undertaken in the Investigation.

B. **Process and Structure** (federal or state funding)

1. After making a decision to proceed with a formal Investigation, the VPR will consult with the Chair of the University Senate to appoint a three-person Committee of Investigation (CoI/Committee), all without conflict of interest. At least two members must be tenured faculty at the rank of associate or full professor and have appropriate expertise for evaluating the information relative to the case. The third member may be appointed from outside the University of North Dakota community if, in the judgment of the VPR, the circumstances justify such an appointment. Otherwise, the third member shall be appointed from within the University and must meet the same requirements as those listed for the first two members. The individual who conducted the Inquiry may not also serve on the CoI. Appointment of a CoI should be made within 20 working days following the receipt of the report of the individual conducting the Inquiry and any comments submitted from the Respondent.

2. Before the Committee is convened, the VPR shall notify all parties in writing of the allegations and of the procedures that will be used to examine the allegations. Further, the parties will be informed of the proposed membership of the CoI for the purpose of identifying, in advance, any real or potential conflicts of interest.
3. At its first meeting, the Committee will elect a chairperson to handle procedural and administrative matters. All Committee members will be voting members.

4. Copies of all pertinent documents in the possession of the VPR will be provided by the VPR to the CoI and the Respondent in advance of scheduled meetings. Proceedings will be tape-recorded and made available to the involved parties but only after a final decision in the entire process has been made.

5. Every effort shall be made to complete the Investigation phase within 120 working days; however, it is acknowledged that some cases may render this time period difficult to meet. In such cases, the CoI must prepare a progress report for the VPR that includes the reasons for the delay and an estimate of the additional time necessary for completion of the Investigation.

6. As related to the Investigation, the VPR, through the Research Integrity Officer, shall convey to any affected funding agency such information as may be required by the funding agency, and shall keep the funding agency up to date at intervals as required by the agency.

7. Individuals involved may have an advocate accompany them to the meeting with the Committee. The advocate may not present to the Committee.

8. The Investigation normally will include examination of all documentation, including but not necessarily limited to relevant research data and proposals, publications, correspondence, and information the CoI feels pertains to the issue. The Committee will make every attempt to interview all individuals involved either in making the allegation or against whom an allegation is made, as well as other individuals who might have information regarding key aspects of the allegations. Complete summaries of these interviews will be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file. Additional interviews may be held, and the Committee may request the involvement of outside experts. The Investigation must be sufficiently thorough to permit the Committee to reach a decision about the validity of the allegation(s) and the scope of the wrongdoing or to be sure that further investigation is not likely to alter an inconclusive result.

9. All parties in the Investigation are encouraged to cooperate by producing any additional data requested for the Investigation. Copies of all materials secured by the Committee shall be provided to the Respondent.
10. The Respondent shall have an opportunity to address the charges and information in detail during the interview and in writing at the end of the process.

11. After all information has been received and the fact-finding interviews have been completed, the Committee shall deliberate and prepare its findings. The Committee shall find no academic misconduct unless a majority of the members conclude beyond a reasonable doubt that the allegation(s) have been substantiated. A minority report can be written.

12. All significant developments during the Investigation, as well as the findings of the Committee, will be reported by the VPR to any affected research sponsor, if appropriate.

C. Findings (federal or state funding)

1. Upon completion of the Investigation, the Committee will submit a draft report to the Respondent for comment. The Respondent shall be given the opportunity to comment in writing upon the findings and recommendations of the Committee. If the Respondent chooses to comment, such comments shall be forwarded as soon as possible but no later than 20 working days from the date of receipt of the draft report. The Respondent will be sent a copy of the draft report by certified mail, return receipt requested. The Respondent’s comments will be taken into consideration when completing the report. The Committee will then submit the final report to the VPR, which details the Committee’s findings.

2. The final institutional investigation report must be in writing and include:

   a. Allegations. Describe the nature of the allegations of research misconduct

   b. Federal or state support. Describe and document federal or state support including, for example, any grant numbers, grant applications, contracts, and publications listing federal or state support.

   c. Institutional charge. Describe the specific allegations of research misconduct for consideration in the Investigation.

   d. Policies and procedures. If not already provided to ORI with the Inquiry report, include the institutional policies and procedures under which the Investigation was conducted.

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4 Memo #4 Inquiry into Professional Misconduct (federal or state funding)
e. Research records and information. Identify and summarize the research records and information reviewed, and identify any information taken into custody but not reviewed.

f. Statement of findings. For each separate allegation of research misconduct identified during the Investigation, provide a finding as to whether research misconduct did or did not occur and if so:

1) Identify whether the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;

2) Summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the Respondent;

3) Identify the specific federal or state support;

4) Identify whether any publications need to be corrected or retracted;

5) Identify the person(s) responsible for the misconduct; and

6) List any current support or known applications or proposals for support that the Respondent has pending with all federal or state agencies.

g. Comments. Include and consider any comments made by the Respondent and Complainant on the draft Investigation report.

h. Upon request, maintain and provide to the ORI (or other federal or state agencies) all relevant research records and records of the institution’s research misconduct proceeding, including results of all interviews and the transcripts of recordings of such interviews.

i. All records of any research misconduct proceedings will be maintained in the office of the VPR by the Research Integrity Officer for six (6) years after completion of the proceedings or the completion of any ORI proceedings involving the allegations of research misconduct, whichever is later, unless custody of the records has been transferred to ORI or ORI has advised that the records no longer need to be retained, and the University’s record retention time has expired.
3. The report shall also be sent to the Respondent by the VPR within 10 working days of receipt of the report along with the findings of the VPR and sanctions, if any.

D. Information Outside the Investigation

If, in the course of its Investigation, the CoI finds something that should be reviewed or changed, the CoI may send a separate letter to the individual who has the authority to act on the information. This information should not be contained in the official CoI report nor should it reveal the subject matter of the Investigation or the parties involved.

VIII. Disposition Phase (federal or state funding)

A. If No Academic Misconduct Is Found (federal or state funding)

Within 10 working days of receipt of the CoI report, the VPR shall furnish the report to the Respondent with the VPR’s decision, including sanctions, if appropriate. The VPR shall inform the Respondent, Complainant, and the appropriate Dean that allegations of misconduct were not supported. The VPR, through the Research Integrity Officer, shall inform all federal or state agencies, sponsors, or other external entities initially informed of the Investigation, that the allegations of misconduct were not supported. If the allegations are deemed to have been maliciously motivated, the Committee will report those findings to the VPR. If the allegations, however incorrect, are deemed to have been made in good faith, no additional measures are indicated and efforts will be made to prevent retaliatory actions. In publicizing the findings of no misconduct, the University will be guided by whether public announcements will be harmful or beneficial in restoring any reputation(s) that may have been damaged. Usually, such decision will rest with the Respondent.

B. If Academic Misconduct Is Found (federal or state funding)

1. The VPR shall consider the recommendations of the CoI and shall be responsible for determining and implementing any sanctions. Within 10 working days of receipt of the report from the CoI, the VPR shall notify the Respondent and the President, in writing, of the recommended sanctions, if any. A copy of the report will accompany the VPR’s decision.

2. The University must impose sanctions that are appropriate to the seriousness of the misconduct, including, but not limited to, one or more of the following:

   a. Letter of reprimand in file;
   
   b. Removal from particular project;
c. Special monitoring of future work;
d. Letter of reprimand with public notice;
e. Probation for a specified period with conditions;
f. Suspension of rights and responsibilities for a specified period, with or without salary;
g. Financial restitution; and/or
h. Termination of employment/enrollment.

3. If the sanctions involve a recommendation for termination of employment, the Respondent may use University academic termination procedures.

4. The VPR, through the Research Integrity Officer, is responsible for notification of all federal or state agencies, sponsors or other entities initially informed of the Investigation’s outcome. Consideration should be given to formal notification of:
   a. Sponsoring agencies, funding sources;
   b. Co-authors, co-investigators, collaborators, department, campus University publications;
   c. Editors of journals in which fraudulent research was published;
   d. State professional licensing boards;
   e. Editors of journals or other publications, other institutions, sponsoring agencies, and funding sources with which the individual has been affiliated; and
   f. Professional societies.

5. Sanctions that prevent the Respondent from fulfilling his/her obligations as an employee of the University shall not be imposed during the Inquiry or Investigation phase unless it is necessary to prevent harm to the Respondent or to others.

C. Appeal (federal or state funding)
Respondents may appeal the sanctions of the CoI to the Standing Committee on Faculty Rights (SCFR).
1. Under section 605.3(9) of the State Board of Higher Education (SBHE) Policies, the Respondent may appeal to SCFR “[i]f the administration determines that the conduct of a faculty member . . . provides reasonable cause for imposition of a sanction, the administration shall inform the faculty member in writing of the sanction and the reasons for the sanction. . . . If the sanction is imposed without a [SCFR] hearing . . . “, the faculty member may request a SCFR review by following the SBHE policy and the University’s implementation, both of which may be found in the University’s Faculty Handbook.

2. If initiated, the review of imposed sanctions by SCFR concludes review under this Policy.

3. If the finding of misconduct results in termination, Respondents may request a SCFR review of the decision to terminate by following the SBHE policy and the University’s implementation, both of which may be found in the University’s Faculty Handbook.

IX. Allegations of Misconduct (no federal or state funding)

A. Reporting Allegations (no federal or state funding)
Once the VPR has determined that the allegations do not involve any federal or state funding or grant proposals, the VPR will report the allegations to the Vice President for Academic Affairs or a designee and procedures in 5.6.IX-XII will be followed. (The term “the Vice President for Academic Affairs” in the balance of this document shall mean “the Vice President for Academic Affairs (VPAA) or a designee.”) If the VPAA has a possible conflict of interest, the allegations will be referred to the VPR of the University.

B. Pre-Inquiry Review (no federal or state funding)
The VPAA shall review, during the pre-inquiry stage, any allegation of misconduct in research, scholarship and creative activity and then determine whether:

1. the allegation is within the purview of this Policy;

2. other policies and procedures, such as those relevant to employment grievances, should be invoked;

3. the allegation is outside the purview of the University; or

4. the allegation is clearly without substance.

If an Inquiry is determined to be unwarranted, the VPAA shall prepare an internal memorandum-for-file including a statement of the allegation and the rationale for not conducting an inquiry. This memorandum shall be kept secure.
and destroyed pursuant to the University’s records retention policy six (6) years after completion of the matter. A copy shall be given to the Respondent.

If an Inquiry is determined to be warranted, the VPAA will counsel the individual(s) bringing the allegation as to the policies and procedures to be used. If the reporting individual chooses not to make a formal allegation but the VPAA believes that enough information exists to warrant an inquiry, the Inquiry process will be initiated.

C. Notification of Respondent (no federal or state funding)
In the event the VPAA determines that the allegation has been reviewed according to these policies and procedures, the VPAA, within 20 working days of receipt of an allegation, shall:

1. complete the pre-inquiry review;
2. notify the Respondent and the appropriate Dean(s) of the allegation;
3. notify all parties of the procedures that will be used to examine the allegation; and
4. notify all parties of the proposed individual responsible for the Inquiry (Inquirer) review [VI.B.1], and ask all parties to identify any real or potential conflict of interest between the proposed Inquirer and the parties involved in the allegation.

X. Inquiry Phase (no federal or state funding)

A. Purpose (no federal or state funding)
After review by the VPAA and an assessment that there is the possibility of misconduct under this Policy, the VPAA will initiate an Inquiry, which is the second step in the review process. In the Inquiry phase, factual information will be gathered and expeditiously reviewed to determine whether or not a further investigation of the charge (Investigation phase) is warranted. The inquiry phase is designed to separate allegations deserving of further investigation from frivolous, unjustified, or clearly mistaken allegations.

B. Process and Structure (no federal or state funding)

1. After a decision has been made to proceed with an Inquiry, the VPAA will appoint an individual to conduct the Inquiry. The Inquirer must be a tenured faculty member at the rank of associate or full professor who is without conflict of interest and has appropriate expertise to evaluate the information relative to the case.

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4 Memo #5 Notification of Inquiry into Professional Misconduct (no federal or state funding)
2. The VPAA will provide the Inquirer and the Respondent with copies of all relevant documents. During the Inquiry, the VPAA and the Inquirer will be responsible for the security of relevant documents. Originals of all documents and related communications are to be securely maintained in the Office of the Vice President for Academic Affairs pursuant to the records retention policy.

3. Responsibilities of the Inquirer

a. Records of the Inquiry are to be kept and, at the end of the Inquiry, transferred to the VPAA. The records are to be kept secure, and if no misconduct is found, the records should be destroyed six (6) years after completion of the entire process.

b. If there is a need for interviews, the interviews must be tape-recorded and, upon request, made available to involved parties after the final decision in the entire process is made.

c. Information, expert opinions, records, and other pertinent data may be requested by the Inquirer. All involved individuals are expected to cooperate with the Inquirer by supplying such requested documents and information.

d. The Inquiry phase will be completed within 60 working days of its initiation unless the Inquirer determines that circumstances clearly warrant an extension of time. In such circumstances, the Inquirer will advise the VPAA who will notify all relevant parties of the extension. The record of the Inquiry will include the rationale for exceeding the 60-working-day period.

e. As the Inquiry is intended to be expeditious, principals are expected to speak for themselves but may be accompanied by a representative for advice and counsel.

C. As the University is responsible for protecting the health and safety of research subjects, students, and staff, interim administrative action prior to conclusion of either the Inquiry or the investigation may be indicated. Such action ranging from slight restrictions through complete suspension of the Respondent or the Respondent’s research, will be initiated by the VPAA in collaboration with the VPR.

D. Findings (no federal or state funding)

1. The completion of an Inquiry is marked by a determination of whether or not an investigation is warranted, thus if warranted, invoking the Investigation phase. The Inquirer shall not recommend that an
investigation occur unless he/she concludes, based on sufficient information for each allegation, that the allegation(s) have sufficient merit to call for an investigation. The report of the Inquirer will be conveyed in writing to the VPAA who will be responsible for communicating the findings to the Respondent within 10 working days of receipt of the report. The report of the Inquirer shall specify the information that was reviewed, summarize relevant interviews, and include the conclusions of the Inquiry. The Respondent shall be given the opportunity to comment in writing upon the findings and recommendations of the Inquirer. If the Respondent chooses to comment, such comments shall be forwarded as soon as possible but must be forwarded no later than 20 working days from the date of notification of the findings by the VPAA. The VPAA will notify the Respondent in writing, by certified mail, return receipt requested. Respondent’s comments will become part of the Inquiry Record.

2. If an allegation is found to be unsupported but has been submitted in good faith, no further action, other than informing all involved parties, will be taken. Reasonable efforts will be taken to protect the standing and the reputations of both the person(s) making the allegation(s) and the Respondent(s).

3. If the Inquirer finds the allegations to be unjust and malicious, the Inquirer will report those findings to the VPAA. At that time, the VPAA may take such actions, or impose such sanctions, as are appropriate to the situation. The University will take reasonable steps to restore the academic reputation of the person whose conduct was the subject of the Inquiry.

4. If the outcome of the Inquiry indicates the need for a formal investigation, the Inquirer will communicate those findings to the VPAA. If the VPAA concurs with the recommendation of the Inquirer, the VPAA, after notification to the appropriate Dean(s), the VPR, and legal counsel, will initiate the investigation phase. Factors to be considered in determining the timing of such notification include the following:

    a. There is an immediate health hazard involved.
    b. There is an immediate need to protect funds or equipment.
    c. There is an immediate need to protect the interests of the person(s) making the allegations or the individual(s) who is the subject of the allegations as well as co-investigators and associates, if any.

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5 Memo #6 Inquiry into Professional Misconduct (no federal or state funding)
d. It is probable that the alleged incident will be reported publicly. Or,

e. There is a reasonable indication of possible criminal violation.

XI. Investigation Phase (no federal or state funding)

A. Purpose (no federal or state funding)
An Investigation will be initiated when the Inquirer issues a finding that an investigation is warranted and the VPAA concurs with that recommendation. The purpose of investigation is to explore further the allegations and determine whether misconduct in research and scholarship has been committed. The Investigation will focus on accusations of misconduct as defined previously and examine the factual materials of each case. In the course of an investigation, additional information may emerge that justifies broadening the scope of the Investigation beyond the initial allegations. The Respondent will be informed in writing when significant new directions are undertaken in the Investigation.

B. Process and Structure (no federal or state funding)

1. After making a decision to proceed with a formal Investigation, the VPAA will consult with the Chair of the University Senate to appoint a three-person Committee of Investigation (CoI/Committee), all without conflict of interest. At least two members must be tenured faculty at the rank of associate or full professor and have appropriate expertise for evaluating the information relative to the case. The third member may be appointed from outside the University of North Dakota community if, in the judgment of the VPAA, the circumstances justify such an appointment. Otherwise, the third member shall be appointed from within the University and must meet the same requirements as those listed for the first two members. The Inquirer shall not serve on the CoI. Ideally, appointment of a CoI should be made within 20 working days following the receipt of the Inquirer’s report and any comments submitted from the Respondent.

2. Before the Committee is convened, the VPAA shall notify all parties in writing of the allegations and of the procedures that will be used to examine the allegations. Further, the parties will be informed of the proposed membership of the CoI for the purpose of identifying, in advance, any real or potential conflicts of interest.

3. At its first meeting, the Committee will elect a chairperson to handle procedural and administrative matters. All Committee members will be voting members.

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6 Memo #7 Notification of Investigation into Professional Misconduct (no federal or state funding)
4. Copies of all pertinent documents in the possession of the VPAA will be provided by the VPAA to the CoI and the Respondent in advance of scheduled meetings. The Committee proceedings must be tape-recorded and, upon request, made available to involved parties but only after a final decision in the entire process has been made.

5. Every effort shall be made to complete the investigation phase within 120 working days; however, it is acknowledged that some cases may render this time period difficult to meet. In such cases, the CoI must prepare a progress report for the VPAA that includes the reasons for the delay and an estimate of the additional time necessary for the completion of the Investigation.

6. Individuals involved may have an advocate accompany them to the meeting with the CoI. The advocate may not present to the Committee.

7. The Investigation normally will include examination of all documentation, including but not necessarily limited to relevant research data and proposals, publications, correspondence, and information the CoI feels is pertinent to the issue. The Committee will make every attempt to interview all individuals involved either in making the allegation or against whom an allegation is made, as well as other individuals who might have information regarding key aspects of the allegations. Complete summaries of these interviews will be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file. Additional interviews may be held, and the Committee may request the involvement of outside experts. The Investigation must be sufficiently thorough to permit the Committee to reach a decision about the validity of the allegation(s) and the scope of the wrongdoing or to be sure that further investigation is not likely to alter an inconclusive result.

8. All parties in the Investigation are encouraged to cooperate by producing any additional data requested for the Investigation. Copies of all materials secured by the Committee shall be provided to the Respondent.

9. The Respondent shall have an opportunity to address the charges and information in detail during the interview and in writing at the end of the process.

10. After all information has been received and the fact-finding interviews have been completed, the Committee shall deliberate and prepare its findings. The Committee shall find no academic misconduct unless a majority of the members conclude beyond a reasonable doubt that the allegation(s) have been substantiated. A minority report can be written.
C. Findings (no federal or state funding)

1. Upon completion of the Investigation, the Committee will submit a draft report to the Respondent for comment. The Respondent shall be given the opportunity to comment in writing upon the findings and recommendations of the Committee. If the Respondent chooses to comment, such comments shall be forwarded as soon as possible but no later than 20 working days from the date of receipt of the draft report. The Respondent will be sent a copy of the draft report by certified mail, return receipt requested. The Respondent’s comments will be taken into consideration when completing the report. The Committee will then submit the final report to the VPAA, which details the Committee’s findings.

2. The final institutional investigation report must be in writing and include:

   a. Allegations. Describe the nature of the allegations of research misconduct

   b. Institutional charge. Describe the specific allegations of research misconduct for consideration in the Investigation.

   c. Research records and information. Identify and summarize the research records and information reviewed, and identify any information taken into custody but not reviewed.

   d. Statement of findings. For each separate allegation of research misconduct identified during the Investigation, provide a finding as to whether research misconduct did or did not occur and if so:

      1) Identify whether the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;

      2) Summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the Respondent;

      3) Identify whether any publications need to be corrected or retracted;

      And,

      4) Identify the person(s) responsible for the misconduct;

7 Memo #8 Inquiry into Professional Misconduct (no federal or state funding)
g. Comments. Include and consider any comments made by the Respondent and Complainant on the draft Investigation report.

h. All records of any research misconduct proceedings will be maintained in the office of the VPAA for six (6) years after completion of the proceedings and the University’s record retention time has expired.

3. The report shall also be sent to the Respondent by the VPAA within 10 working days of receipt of the report, along with the findings of the VPAA and sanctions, if any.

D. Information Outside the Investigation

If, in the course of the Investigation, the CoI finds something that should be reviewed or changed, the CoI may send a separate letter to the individual who has the authority to act on the information. This should not be contained in the official CoI report, nor should it reveal the subject matter of the Investigation or the parties involved.

XII. Disposition Phase (no federal or state funding)

A. If No Academic Misconduct Is Found (no federal or state funding)

   Within ten (10) working days of receipt of the CoI report, the VPAA shall furnish the report to the Respondent with the VPAA’s decision including sanctions, if any. The VPAA shall inform the Respondent, Complainant, and the appropriate Dean that allegations of misconduct were not supported. If the allegations are deemed to have been maliciously motivated, the Committee will report those findings to the VPAA. If the allegations, however incorrect, are deemed to have been made in good faith, no additional measures are indicated and efforts will be made to prevent retaliatory actions. In publicizing the findings of no misconduct, the University will be guided by whether public announcements will be harmful or beneficial in restoring any reputation(s) that may have been damaged. Usually, such decision will rest with the Respondent.

B. If Academic Misconduct Is Found (no federal or state funding)

   1. The VPAA shall consider the recommendations of the CoI and shall be responsible for determining and implementing any sanctions. Within 10 working days of receipt of the report from the CoI, the VPAA shall notify the Respondent and the President, in writing, of the recommended sanctions, if any. A copy of the report will accompany the VPAA’s decision.
2. The University must impose sanctions that are appropriate to the seriousness of the misconduct, including, but not limited to, one or more of the following:
   
a. Letter of reprimand in file;
   
b. Removal from particular project;
   
c. Special monitoring of future work;
   
d. Letter of reprimand with public notice;
   
e. Probation for a specified period with conditions;
   
f. Suspension of rights and responsibilities for a specified period, with or without salary;
   
g. Financial restitution; and/or
   
h. Termination of employment/enrollment.

3. If the sanctions involve a recommendation for termination of employment, the Respondent may use University academic termination procedures.

4. Sanctions that prevent the Respondent from fulfilling his/her obligations as an employee of the University shall not be imposed during the Inquiry or Investigation phase unless it is necessary to prevent harm to the Respondent or to others.

D. Appeal (no federal or state funding)
Respondents may appeal the sanctions of the CoI to the Standing Committee on Faculty Rights (SCFR).

   1. Under section 605.3(9) of the State Board of Higher Education (SBHE) Policies, the Respondent may appeal to SCFR “[i]f the administration determines that the conduct of a faculty member . . . provides reasonable cause for imposition of a sanction, the administration shall inform the faculty member in writing of the sanction and the reasons for the sanction. . . . If the sanction is imposed without a [SCFR] hearing . . . “, the faculty member may request a SCFR review by following the SBHE policy and the University’s implementation, both of which may be found in the University’s Faculty Handbook.

   2. If initiated, the review of imposed sanctions by SCFR concludes review under this Policy.
3. If the finding of misconduct results in termination, Respondents may request a SCFR review of the decision to terminate by following the SBHE policy and the University’s implementation, both of which may be found in the University’s Faculty Handbook.

Revised March 13, 2008
Memo #1 (federal or state funding)

To: _____________________ (Respondent)
Cc: _____________________ (Complainant)
___________________ (proposed Inquirer)

From: Vice President for Research

Date: _______________

Re: Notification of Inquiry into Professional Misconduct

This is to inform you that I have completed a Pre-Inquiry review of allegations of professional misconduct brought against you by ___________________, and that I have determined that I have enough information to warrant further inquiry into the allegations.

The next step in the process (Faculty Handbook III.5.6) is the Inquiry Phase during which factual information will be gathered and expeditiously reviewed to determine whether a further inquiry of the charge is warranted. The Inquiry Phase is designed to separate allegations deserving of further investigation from frivolous, unjustified, or clearly mistaken allegations.

I intend to appoint ______________________ to conduct an Inquiry. Within five working days of the date of this memo, everyone should inform me whether or not any real or potential conflict of interest exists between the proposed individual conducting the Inquiry and the parties involved in the allegation. If I receive no notice of conflict of interest, the individual conducting the Inquiry, the Inquirer, will have 60 working days to complete the Inquiry, unless circumstances clearly warrant a longer period. This is a paper review based on the documentation received by the Vice President and questions submitted by the Inquirer to either the Complainant or Respondent for clarification. After review of all of the documentation including the written responses from the Complainant and Respondent, a determination may be made that follow-up interviews with the Complainant or Respondent may be necessary to complete the Inquiry. If the Inquirer determines that an interview is necessary, principals are expected to speak for themselves but may be accompanied by a representative for advice and counsel. In case the issue is determined to need further review, do not bring an individual as an advisor who has knowledge of the issues and with whom you may want a Committee of Investigation to speak.

If you have any questions about the process, please refer to the following documents that are guiding the Inquiry:
UND Faculty Handbook, III.5.6 Ethical Conduct in Research, Scholarship and Creative Activity
http://www.und.nodak.edu/dept/registrar/senate/FacultyHandbook/Section3.htm#5.7

Office of Research Integrity, US Department of Health and Human Services
http://www.ori.dhhs.gov/policies/Requirements-Reg-6-05.shtml
MEMO #2 (federal or state funding)

To: ____________________ (Respondent)

From: Vice President for Research

Date: ______________

Re: Inquiry into Professional Misconduct

The Inquiry concerning allegations of professional misconduct against you has been completed. Enclosed please find the report. The purpose of this memo is to give you the opportunity to provide written comments on these findings. Please send me your written comments, if any, within 20 working days from the date of this memorandum.

Enclosure
Memo #3 (federal or state funding)

Certified Mail
Return Receipt Requested

To: _____________________ (Respondent)
Cc: _____________________ (Complainant)
    _____________________ (Dean)
    _____________________ (VPAA/Provost)
    _____________________ (proposed Committee of Investigation)

From: Vice President for Research

Date: _______________

Re: Notification of Investigation into Professional Misconduct

This is to inform you that I concur with the findings of the Inquiry that an investigation into your professional misconduct is warranted. The purpose of Investigation is to explore further the allegations and determine whether misconduct in research and scholarship has been committed. The Investigation will focus on accusations of misconduct as defined previously and examine the factual materials of each case. In the course of the Investigation, additional information may emerge that justifies broadening the scope of the Investigation beyond the initial allegations. You will be informed in writing if significant new directions for investigation are undertaken.

I intend to appoint _____, _________, and ________ to serve on the Committee of Investigation. Within five working days of the date of this memo, inform me as to whether or not you have any real or potential conflict of interest between the proposed Committee of Investigation and you. The Committee of Investigation will have 120 working days to complete its Investigation, unless the Committee determines that circumstances clearly warrant a longer period. You may bring an advocate who may counsel you; he or she may not speak with the Committee. Do not bring an individual as advisor who has knowledge of the issue and with whom you would like the Committee to speak.

If you have any questions about the process, please refer to the following documents that are guiding the inquiry:

UND Faculty Handbook, III.5.6 Ethical Conduct in Research, Scholarship and Creative Activity
http://www.und.nodak.edu/dept/registrar/senate/FacultyHandbook/Section3.htm#5.7

Office of Research Integrity, US Department of Health and Human Services
MEMO #4 (federal or state funding)

Certified Mail
Return Receipt Requested

To: _____________________ (Respondent)

From: Vice President for Research

Date: _________________

Re: Investigation into Professional Misconduct

The Committee on Investigation has completed the investigation into the allegation of professional misconduct against you. Enclosed please find the report. The purpose of this memo is to give you the opportunity to provide written comments on these findings. Please send me your written comments, if any, within 20 working days from the date of this memorandum.

Enclosure
Memo #5 (no federal or state funding)

Certified Mail
Return Receipt Requested

To: ______________________ (Respondent)
Cc: ______________________ (Complainant)
    ______________________ (proposed Inquirer)

From: _____________________, VPAA/Provost

Date: _____________________

Re: Notification of Inquiry into Professional Misconduct

This is to inform you that I have completed a Pre-Inquiry review of allegations of professional misconduct brought against you by ________________ and that I have determined that I have enough information to warrant further inquiry into the allegations.

The next step in the process (Faculty Handbook III.5.6) is the Inquiry Phase during which factual information will be gathered and expeditiously reviewed to determine whether a further inquiry of the charge is warranted. The Inquiry Phase is designed to separate allegations deserving of further investigation from frivolous, unjustified, or clearly mistaken allegations.

I intend to appoint _____________________ to serve as the Inquirer. Within five working days of receipt of this memo, please inform me as to whether or not you have any real or potential conflict of interest between the proposed Inquirer and you. The Inquirer will have 60 working days to complete his/her Inquiry, unless the Inquirer determines that circumstances clearly warrant a longer period. This is a paper review based on the documentation received by the Vice President and questions submitted by the Inquirer to either the Complainant or Respondent for clarification. After review of all of the documentation including the written responses from the Complainant and Respondent, a determination may be made that follow-up interviews with the Complainant or Respondent may be necessary to complete the Inquiry. If the Inquirer determines that an interview is necessary, principals are expected to speak for themselves but may be accompanied by a representative for advice and counsel. In case the issue is determined to need further review, do not bring an individual as an advisor who has knowledge of the issues and with whom you may want a Committee of Investigation to speak.

If you have any questions about the process, please refer to the following documents that are guiding the Inquiry:
MEMO #6 (no federal or state funding)

To: ________________ (Respondent)

From: ________________, VPAA/Provost

Date: ________________

Re: Inquiry into Professional Misconduct

The Inquirer has completed the inquiry into the allegation of professional misconduct against you. Enclosed please find the report. The purpose of this memo is to give you the opportunity to provide written comments on these findings. Please send me your written comments, if any, within 20 working days of the date of this memorandum.

Enclosure
Memo #7 (no Federal or state funding)

Certified Mail
Return Receipt Requested

To: ____________________ (Respondent)
Cc: ____________________ (Complainant)
    ____________________ (Dean)
    ____________________ (proposed Committee of Investigation)

From: _________________, VPAA/Provost

Date: __________________

Re: Notification of Investigation into Professional Misconduct

This is to inform you that I concur with the findings of the Inquirer that an investigation into your professional misconduct is warranted. The purpose of Investigation is to explore further the allegations and determine whether misconduct in research, scholarship, and creative activity has been committed. The Investigation will focus on accusations of misconduct as defined previously and examine the factual materials of each case. In the course of the Investigation, additional information may emerge that justifies broadening the scope of the investigation beyond the initial allegations. You will be informed in writing if significant new directions for investigation are undertaken.

I intend to appoint ______, ________, and ________ to serve on the Committee of Investigation. Within five working days of the date of this memo, please inform me as to whether or not you have any real or potential conflict of interest between the proposed Committee of Investigation and you. The Committee of Investigation will have 120 working days to complete its Investigation, unless the Committee determines that circumstances clearly warrant a longer period. You may bring an advocate who may counsel you; he or she may not speak with the Committee. Do not bring an individual as advisor who has knowledge of the issue and with whom you would like the Committee to speak.

If you have any questions about the process, please refer to the following documents that are guiding the inquiry:

UND Faculty Handbook, III.5.6 Ethical Conduct in Research, Scholarship and Creative Activity
http://www.und.nodak.edu/dept/registrar/senate/FacultyHandbook/Section3.htm#5.7
MEMO #8 (no federal or state funding)

To: ______________________ (Respondent)

From: _________________, VPAA/Provost

Date: ________________

Re: Investigation into Professional Misconduct

The Committee of Investigation has completed the investigation into the allegation of professional misconduct against you. Enclosed please find the report. The purpose of this memo is to give you the opportunity to provide written comments on these findings. Please send me your written comments, if any, within 20 working days of the date of this memorandum.

Enclosure