

Procedure for Conducting the Inquiry

I. Initiation of the Inquiry

Following the preliminary assessment, if the Research Integrity Officer (RIO) determines that the allegation provides sufficient information to allow specific follow-up, involves federal support, and/or falls under the definition of research misconduct, he or she will immediately initiate the inquiry process after consulting with the Locally Designated Official (LDO) or Vice Provost--Academic Personnel, if appropriate. In initiating the inquiry, the RIO should identify clearly the original allegation and any related issues that should be evaluated. If a research misconduct allegation contains additional allegations, the RIO may obtain a charge from the appropriate official to continue investigating the additional issue or the allegations will be severed and handled separately.

II. Purpose of the Inquiry

The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the Respondent, Reporter, and key witnesses to determine whether there is sufficient evidence of possible research misconduct to warrant an investigation. The purpose of the inquiry is not to reach a final conclusion about whether research misconduct definitely occurred or who was responsible. The findings of the inquiry must be set forth in an inquiry report.

III. First Steps

- A. As soon as practicable after the RIO determines that an inquiry is required, he or she will:
 - 1. Secure the relevant research records (see IV, below).
 - 2. Notify the Vice Chancellor—Research, Campus Counsel, and the Respondent. ORI and/or the Cognizant Federal Sponsor should be notified if the request to open the inquiry originated from ORI or the federal sponsor.
 - 3. Appoint and charge the Inquiry Committee.
 - 4. Notify ORI and/or the Federal Sponsor if any of the conditions listed in Section 240-01, VII.G.3, are present.
- B. The RIO or Campus Counsel may consult with ORI or the Federal Sponsor at any time regarding appropriate procedures to be followed.

IV. Securing the Research Records

- A. Immediate securing of records

If the relevant research records have not been obtained at the assessment stage, the RIO will immediately locate, collect, inventory and secure them to prevent the loss, alteration or fraudulent creation of records.

- B. Institutional access

Employees cannot interfere with UC Davis' right of access to research records produced under federal grants and cooperative agreements. Under contracts, certain research records may belong to federal sponsors, but UC Davis will be provided access to contract records in the custody of UC Davis for purposes of reviewing research misconduct allegations.

- C. Original records

The documents and materials to be secured will include all the original items (or copies if originals cannot be located) that may be relevant to the allegations. These include, but are not limited to, research records as defined in this policy.

- D. Securing records from the Respondent

1. The RIO should notify the Respondent that an inquiry is being initiated simultaneously with the securing of records so that the Respondent can assist with location and identification of the research records. The RIO should obtain the assistance of the Respondent's supervisor and Campus Counsel in this process, as necessary. If the Respondent is not available, securing of the records may begin in the Respondent's absence.
2. The Respondent should not be notified in advance of securing of research records to prevent questions being raised later regarding missing documents or materials and to prevent accusations against the Respondent of tampering with or fabricating data or materials after the notification.
3. In addition to securing records under the control of the Respondent, the RIO may need to secure records from other individuals, such as co-authors, collaborators or Reporters.
4. A copy of each secured record will be provided, within 10 working days, to the individual from whom the record was taken. (See Section 310-24.)

E. Inventory of the records

A dated receipt and inventory list of what has been taken will be signed by the securing official and the person from whom an item is collected, and a copy of the receipt will be given to the person from whom the record is taken at the time of the securing and taking of the record.

F. Security and chain of custody

The RIO will lock records and materials in a secure place. Where feasible, the person from whom original records were collected will have access to his or her own original items under the direct and continuous supervision of a UC Davis official. This will ensure that a proper chain of custody is maintained and that the originals are kept intact and unmodified. Questions about maintaining the chain of custody of records should be referred to Campus Counsel.

V. Notification of the Respondent

A. Contents of Notification

The RIO will notify the Respondent in writing of the opening of the inquiry within 10 days of initiation of the inquiry. The notification should:

1. identify the research project in question, the federal funding involved (if any) and the specific allegations,
2. define research misconduct,
3. list the names of the members of the Inquiry Committee (if appointed) and experts (if any),
4. explain the Respondent's right to challenge the appointment of a member of the committee or expert for bias or conflict of interest, to be assisted by counsel, to be interviewed, to present evidence to the committee and to comment on the Inquiry Report,
5. address the Respondent's obligation to cooperate,
6. describe UC Davis' policy on protecting the Reporter against retaliation and the need to maintain the Reporter's confidentiality during the inquiry and any subsequent proceedings.
7. Include a copy of Section 240-01.

B. Potential Respondents

If no specific Respondent has been identified at this stage of the process, the RIO will notify each potential Respondent that an inquiry will be undertaken (e.g., each co-author on a

questioned article or each investigator on a questioned grant application). If the RIO is unsure of appropriate notification, the RIO should consult with Campus Counsel.

VI. Designation of an Official or a Committee to Conduct the Inquiry

The RIO is responsible for conducting or designating others to conduct the inquiry.

A. Use of an Inquiry Committee

The RIO may appoint a committee of three or more persons to conduct the inquiry consistent with the provisions herein (see VI.A, below). Appointment of the committee will be done jointly with the Vice Provost—Academic Personnel.

B. Use of an Inquiry Official

In cases in which there is an admission of research misconduct by the Respondent, the RIO may choose to conduct the inquiry directly or designate another qualified individual to do so. In such cases, the inquiry official will nevertheless obtain the necessary expert and technical advice to properly consider all issues.

C. Inquiry process

The inquiry, whether conducted by a committee or an individual, will follow each procedural step set forth below.

VII. Appointment of the Inquiry Committee

If an Inquiry Committee is to be appointed, the RIO will use the following procedures:

A. Committee membership

The Inquiry Committee will be appointed jointly by the RIO and the Vice Provost—Academic Personnel. The Vice Provost—Academic Personnel will annually request that the chair of the Davis Division of the Academic Senate provide a list of names of Academic Senate members and non-Senate faculty who will serve as panel members of the Inquiry and Investigation Committees. A majority of the members will be selected from this list unless a waiver is mutually agreed upon by the RIO and Senate Chair. In the event of a waiver, the RIO and the Vice Provost will consider the names forwarded by the Senate Chair in determining who should be appointed to the Inquiry Committee. The Inquiry Committee should consist of at least three individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegation. The committee will interview the principals and key witnesses and conduct the inquiry.

B. Experts

The RIO, in consultation with the committee, will determine whether additional experts other than those appointed to the committee need to be consulted during the inquiry to provide special expertise to the committee regarding the analysis of specific evidence. In this case, the experts provide a strictly advisory function to the committee; they do not vote and generally do not interview witnesses. The experts chosen may be from inside or outside of UC Davis.

C. Bias or conflict of interest

The RIO will take reasonable steps to ensure that the members of the committee and experts have no bias or personal or professional conflict of interest with the Respondent, Reporter, or the case in question. In making this determination, the RIO will consider whether the individual (or any members of his or her immediate family):

1. has any financial involvement with the Respondent or Reporter;
2. has been a co-author on a publication with the Respondent or Reporter;

3. has been a collaborator or co-investigator with the Respondent or Reporter;
4. has been a party to a scientific controversy with the Respondent or Reporter;
5. has a supervisory or mentor relationship with the Respondent or Reporter;
6. has a special relationship, such as a close personal friendship, kinship or a physician/patient relationship with the Respondent or Reporter; or
7. falls within any other circumstance that might appear to compromise the individual's objectivity in reviewing the allegations.

D. Objection by Respondent

The RIO will notify the Respondent of the proposed committee membership and any experts within 10 days of their appointment. If the Respondent submits a written objection to any appointed member of the Inquiry Committee or expert based on bias or conflict of interest within 10 days, the RIO will determine whether to replace the challenged member or expert with a qualified substitute.

E. Confidentiality

Members of the committee and experts will agree in writing to observe the confidentiality of the proceeding and any information or documents reviewed as part of the inquiry. Outside of the official proceedings of the committee, they may not discuss the proceedings with the Respondent, Reporter, witnesses or anyone not authorized by the RIO to have knowledge of the inquiry.

F. Provision of assistance

The RIO, in consultation with Campus Counsel, will provide staff assistance and guidance to the committee and the experts on the procedures for conducting and completing the inquiry including procedures for maintaining confidentiality, conducting interviews, analyzing data and preparing the Inquiry Report.

VIII. Charge to the Committee and the First Meeting

- A. The RIO will prepare a charge for the Inquiry Committee that describes the allegations and any related issues identified during the allegation assessment and states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the Respondent, Reporter and key witnesses to determine whether there is sufficient evidence of possible research misconduct to warrant an investigation. The purpose is not to determine whether research misconduct definitely occurred or who was responsible.
- B. At the committee's first meeting, the RIO will review the charge with the committee, discuss the allegations, any related issues and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry and answer any questions raised by the committee. The RIO and Campus Counsel will be present or available throughout the inquiry to advise the committee as needed.

IX. General Approaches to Conducting the Inquiry

During the inquiry, the committee will take the following steps:

A. Avoid bias or conflict of interest

All necessary steps must be taken to avoid bias or conflict of interest between the committee and experts and the Respondent, Reporter, and witnesses.

B. Refer other issues

The RIO must be advised of any necessary interim actions to protect the research funds, human or animal subjects, or other steps required by regulation or policy. (See Section 240-01, VII.G.3.)

X. General Approaches to Conducting an Interview

A. Purpose of the interview

The purpose of an interview at the inquiry stage is to allow each Respondent, Reporter or witness to tell his or her side of the story. The committee should not attempt to speculate about what happened or might have happened or put words in the witnesses' mouths. Also, the committee should not disclose information obtained from others interviewed unless this is necessary and can be done without identifying the source of the information.

B. Issues to cover

Before an interview, the committee should provide each witness with a summary of the matters or issues intended to be covered at the interview. If the committee raises additional matters, the witness should be given an opportunity to supplement the record in writing or in another interview. The witness should be informed that his or her cooperation and truthful answers are expected. The summary should clearly state that the contents of the matter under investigation and the interview are confidential.

C. Confrontation

At this stage, leading questions should be avoided. Witnesses should not be told at this stage whether other testimony conflicts with theirs, although questions may be asked for purposes of clarifying the testimony.

D. Using experts

The committee may request that experts attend or participate in interviews to assist in its evaluation of the allegations and related issues. If the committee determines that such participation is not appropriate, it may ask an expert to prepare questions for the committee to use at the interview. Any expert retained to assist the committee may read the transcripts or summaries of the interviews.

E. Confidentiality of interviews

Witnesses should be advised that the proceedings are confidential and that they should not discuss the inquiry or their interview with anyone else other than their counsel or adviser.

F. Access to counsel

Witnesses may be accompanied and advised by legal counsel or by a non-legal adviser who is not a principal or witness in the case. However, the counsel or adviser may only advise the witness and may not participate directly in the interview. Witnesses will respond directly to the interview questions.

G. Order of interviews

The Inquiry Committee should interview, if possible, the Reporter, key witnesses and the Respondent, in that order. Witnesses should be asked to provide, in advance if possible, any relevant evidence including their own notes, manuscripts, research records or other documents that were not secured previously but are relevant to the allegation.

H. Interviewing the Reporter

In interviewing the Reporter, the Inquiry Committee should attempt to obtain as much additional evidence regarding the substance of the allegation as possible and to determine the Reporter's

view of the significance and impact of the alleged research misconduct. However, it is not the Reporter's responsibility to prove his or her allegations.

I. Interviewing the Respondent

The Respondent should be asked to provide his or her own response to the allegations, including any analysis of the primary data. If the Respondent claims that an honest error or difference of scientific judgment occurred, he or she should provide any evidence to support that claim. If he or she requests, the Respondent may make a closing statement at the end of the interview.

J. Recording admissions

If the Respondent admits to the research misconduct or other additional misconduct as defined in other policies, the Respondent should be asked to sign a statement attesting to the occurrence and extent of the research misconduct. Normally, an admission is a sufficient basis to proceed directly to an investigation. However, the admission may not be a sufficient basis for closing a case. Further investigation may be needed to determine the extent of the research misconduct or to explore additional issues. If an admission is made, the RIO or Campus Counsel may seek advice from ORI and/or the Federal Sponsor in determining whether there is a sufficient basis to close a case, after the admission is fully documented and all appropriate procedural steps are taken. If the case is closed, the report should be forwarded to the Deciding Official with recommendations for appropriate institutional sanctions and then submitted to ORI and/or the Federal Sponsor for review. If the Respondent admits to the research misconduct, the committee may wish to consult with Campus Counsel immediately with the option of seeking advice from ORI or the Federal Sponsor as needed.

XI. Committee Deliberations

- A. The Inquiry Committee will evaluate the evidence and testimony obtained during the inquiry. After consultation with the RIO and Campus Counsel, the committee members will decide whether there is sufficient evidence of possible research misconduct to recommend further investigation. The scope of the inquiry does not include deciding whether research misconduct occurred or conducting exhaustive interviews and analyses.
- B. Committee deliberations should never be held in the presence of the interviewee. During the interview, the committee members should not debate among themselves or with witnesses over possible scientific interpretations. These questions should be reserved for private discussions among the Inquiry Committee members and expert consultants.

XII. The Inquiry Report

- A. A written Inquiry Report must be prepared that states:
 - 1. the name and title of the committee members and experts, if any;
 - 2. the allegations;
 - 3. the federal support;
 - 4. a summary of the inquiry process used;
 - 5. all relevant dates;
 - 6. a list of the research records reviewed;
 - 7. summaries of any interviews;
 - 8. a description of the evidence in sufficient detail to demonstrate whether an investigation is warranted; and

9. the committee's determination as to whether an investigation is recommended and whether any other actions should be taken if an investigation is not recommended.

B. Campus Counsel will review the report for legal sufficiency.

C. Comments on the draft report by the Respondent and the Reporter

The RIO will provide the Respondent with a copy of the draft Inquiry Report for comment and rebuttal. The report may be redacted to protect the privacy of the Reporter or other witnesses. The RIO may provide the Reporter, if he or she is identifiable, with an opportunity to comment on the contents of the draft Inquiry Report concerning the Reporter's role and opinions relating to the inquiry by either providing relevant portions of the draft report, or by providing a summary of the relevant portions of the draft report.

1. Confidentiality

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

2. Receipt of comments

Within 14 calendar days of their receipt of the draft report, the Respondent and Reporter, if appropriate, will provide their comments, if any, to the Inquiry Committee. Any comments that the Respondent and Reporter, if appropriate, submit on the draft report will become part of the final report and record. Based on the comments, the Inquiry Committee may revise the report as appropriate.

D. Inquiry decision and notification

1. Decision by Deciding Official

The RIO will transmit the final report and any comments to the Deciding Official, who will make the determination of whether findings from the inquiry provide sufficient evidence of possible research misconduct to justify conducting an investigation.

2. Notification

The RIO will notify the Respondent, the Reporter and members of the Inquiry Committee in writing of the Deciding Official's decision of whether to proceed to an investigation and will remind them of their obligation to cooperate in the event an investigation is opened. The RIO will also notify all appropriate institutional officials of the Deciding Official's decision.

E. Time Limit for Completing the Inquiry Report

The Deciding Official's determination must be made within 60 calendar days following the Inquiry Committee's first meeting, unless the RIO approves an extension for good cause. Extensions may be requested by the committee members and/or the Respondent. If the RIO approves an extension, the reason for the extension will be entered into the record of inquiry and the Inquiry Report. The Respondent will also be notified of the extension.