Effective: 01/15/2024
Last Revised: 12/26/2023

Responsible University Office:
Division of Research, Research Compliance (Integrity)

Responsible University Administrator:
Intuitional Official for Research Compliance

Policy Contact:
Sharon N. Obasi, Ph.D.

Research Noncompliance Policy

POLICY CONTENTS

1.0 Scope

The University of Nebraska at Kearney (UNK) is committed to maintaining an academic, research and creative activity environment based on intellectual honesty and integrity. UNK, therefore, expects ethical conduct from all those engaged in research and creative activity, and is dedicated to preventing misconduct in research by supporting good faith efforts to intervene and remedy such conduct.

2.0 Policy Statement

This policy, including the associated procedures, applies to all individuals at the University of Nebraska at Kearney (UNK) engaged in research, scholarship, and creative activity, including non-funded projects, projects supported by the Public Health Service (PHS), the National Science Foundation (NSF), other governmental entities and private funding sources. This policy and associated procedures apply to any person paid by, under the control of, or affiliated with UNK, including, but not limited to, faculty, postdoctoral associates, technicians, and other staff members, students, fellows, guest researchers and collaborators.

This policy applies only to alleged research misconduct, including but not limited to, fabrication, falsification, plagiarism, or not applying for the proper permits or approvals

in proposing, performing, reviewing research, or in reporting research results, as defined in the Definitions section, herein that occurred within six years of the date UNK received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR § 93.105(b).

Authorship or collaboration disputes and other matters that are not within the definition of research misconduct, as set forth in this policy, are not subject to this policy and shall be addressed through the individual's college or department, as appropriate.

This policy and associated procedures apply to controlled and sponsored research, defined as:

1. Funded research and creative activity: Governed by both the Office of Management and Budget (OMB) Circular Title 2, Subtitle A, Chapter 2, Part 200 and the Office of Research Integrity's Federal Research Misconduct Policy. Misconduct allegations in regard to funded research must be handled by an Authorized Official (AO) of the institution or a delegate. The AO has the authority and responsibility (if the allegation warrants such action) to freeze funds for the duration of an inquiry and investigation. These actions are in place to protect all federal funds at an institution. The UNK Research Noncompliance Policy is modeled after the template provided by Office of Research Integrity (ORI).
2. Research with Human Subjects: Any research involving human subjects must follow UNK's federal assurance (FWA00015273) based on the Department of Health and Human Services regulations. The governing body for human subjects is the Institutional Review Board (UNKIRB; a faculty, staff, student, and community committee) which works under the direction of the Institutional Official (IO) for Research Compliance (Integrity).
3. Research With Animal Subjects: Any research involving animal subjects must follow UNK's federal assurance (D18-01025) based on the Office of Laboratory Animal Welfare (OLAW). It should be noted that all animal studies, including wildlife, are protected by this assurance and regulations. The governing body for animal subjects is the Intuitional Animal Care and Use Committee (IACUC; a faculty and community committee) which works under the direction of the IO for Research Compliance (Integrity).
4. Other federally controlled research: Research involving controlled substances (Drug Enforcement Administration [DEA], Title 21, Part 1301.13), biological hazards (Department of Health and Human Services [DHHS], National Institutes of Health [NIH], Office of Science Policy; Recombinant DNA: 59 FR 34472; Biosecurity Policy; Emerging Biotechnology Policy; and United States Department of Agriculture [USDA], Biohazardous Waste Policy), select agents (7 CFR Part 331, 9 CCR Part 121, 29 CFR part 1910-1030, 29 CFR Part 1910-1450, 42 CFR Part 72,
   42 CFR Part 73, 42 CFR Part 1003, 49 CFR Part 171, 49 CFR Part 171.15, 18 USC
   Part 175, 175a, 175b, 18 USC Part 2332a, 42 USC Part 262a, and 42 USC Part 4321-4347), export control regulations(International Traffic in Arms Regulations [ITAR] 22 CFR 120-130, Export Administration Regulations [EAR] Commerce

Control list Part 774, and US Department of the Treasury Office of Foreign Assets Control), among others. These issues are handled through the research compliance under the direction of the IO, who works with appropriate parties (e.g., export control officer) to ensure compliance.

The Office of Research Compliance (Integrity) will report any alleged research misconduct under the auspices of the IRB or IACUC to these committees. Inquiries and investigations in these cases will run either concurrently or as a joint effort, as voted on by the membership of these committees. Specific procedures that these committees follow are detailed in their publicly available federal assurance documentation.

All other research and creative activity where there is an allegation of misconduct will be reported conjointly to the Professional Conduct Committee (PCC) of the faculty senate. The PCC will lead any investigation into research misconduct not associated with sponsored or controlled research as defined above, and will apprise the IO and AO of active investigations.

3.0 Reason for Policy

UNK is responsible for the inquiry, investigation and adjudication of alleged research misconduct, and, in appropriate cases, taking corrective action. As a recipient of federal research funds, UNK must comply with federal policies and regulations on responding to allegations of research misconduct including, without limitation:

- “Public Health Service Policies on Research Misconduct,” 42 CFR Part 93, Subpart A, Public Health Service regulations
- "Federal Policy on Research Misconduct," Executive Office of the President, 65 Fed. Reg. No. 235, December 6, 2000, Office of Science and Technology Policy
- "Research Misconduct," 45 CFR Part. 689, National Science Foundation regulations

4.0 Definitions

Below is a list of key terms pertinent to the UNK research noncompliance policy.

Allegation means any disclosure of possible research misconduct through any means of communication. The disclosure may be by written or oral statement or other communication.

Complainant is the person(s) who make(s) an allegation of research misconduct.

Conflict of Interest means an unresolved personal, professional, or financial conflict of interest involving the complainant or respondent or in the underlying research.

Deciding Official is the UNK official who makes final determinations on allegations of research misconduct and any institutional administrative actions. The Deciding Official will not be the same individual as the IO or Director of Research Compliance (Integrity) and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment. The Deciding Official's appointment of an individual to assess allegations of research misconduct, or to serve on an inquiry or investigation committee, is not considered to be direct prior involvement. The UNK Deciding Official is ordinarily the Senior Vice Chancellor for Academic Affairs (SVAA).

Evidence refers to any document, tangible item or testimony offered or obtained during a research misconduct inquiry that is involved to prove or disprove the existence of an allegation.

Fabrication means making up data or results and recording or reporting them.

Falsification means manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

Good faith as applied to a complainant or witness, means having a belief in the truth of one's allegation or testimony that a reasonable person in the complainant's or witness's position could have based on the information known to the complainant or witness at the time. An allegation or cooperation with a research misconduct proceeding is not in good faith if made with knowing or reckless disregard for information that would negate the allegation or testimony. Good faith as applied to a committee member means cooperating with the research misconduct proceeding by carrying out the duties assigned impartially for the purpose of helping UNK meet its responsibilities under this part. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the research misconduct proceeding.

Inquiry means preliminary information-gathering and preliminary fact-finding in accordance with applicable law to determine whether an allegation of research misconduct warrants investigation.

Institutional Official (IO) means the person with primary responsibility for implementation of UNK's policies and procedures on research misconduct. Among other

things, the IO performs the duties described in this policy and is responsible for federal assurances of research integrity. The IO is ordinarily the Chief Research Officer (the Assistant Vice Chancellor for Research).

Investigation means the formal development of a factual record and the examination of that record leading to a decision to recommend or not a finding of research misconduct and may include a recommendation for other appropriate actions, including administrative action.

ORI means the *Office of Research Integrity* in the U.S. Department of Health and Human Services (DHHS). ORI is responsible for the scientific misconduct and research integrity activities of the U.S. Public Health Service (PHS).

Plagiarism means the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

Recklessly committing research misconduct means a gross lack of carefulness, with complete disregard of the adverse consequences.

Research means a systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) relating broadly to establishing, discovering, developing, elucidating or confirming information about, or the underlying mechanism relating to matters to be studied. Research is broadly defined in this policy to include all 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.

Research Integrity includes the honest and verifiable methods in proposing, performing and evaluating research; conducting research and reporting results with particular attention to adherence to rules, regulations, guidelines and following commonly accepted professional codes or norms.

Research Misconduct includes, but is not limited to, fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion.

Research Record means the record of data or results that embody the facts resulting from scientific inquiry, including but not limited to, research proposals (funded or unfunded), laboratory records (both physical and electronic), progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to an outside funder or an institutional official by a respondent in the course of the research misconduct proceeding. A research record includes, but is not limited to, any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of research misconduct.

Respondent means the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding. There can be more than one respondent in any inquiry or investigation.

Retaliation means any adverse action taken against a complainant, witness, or committee member by an institution or one of its members in response to—(a) a good faith allegation of research misconduct; or (b) good faith cooperation with a research misconduct proceeding.

Related Information

University of Nebraska at Kearney Faculty Senate, PHS assurance for the Protection of Human Subjects, PHS Assurance for the Protection of Animal Subjects and the Collective Bargaining Agreement.

5.0 Responsibility for Implementation

The Senior Vice Chancellor for Academic Affairs (SVAA) is responsible for assuring compliance with federal, state, and university policies and procedures governing the responsible and ethical conduct of research. The SVAA delegates responsibility for responding to allegations of research misconduct to the Institutional Official (IO) for Research Integrity (ordinarily the Assistant Vice Chancellor for Research), who shall be responsible for ensuring that inquiries and investigations thoroughly evaluate the facts while protecting the rights of the parties involved in the alleged misconduct. These responsibilities include the foundational belief that the accused is presumed innocent until proven guilty.

This policy and its associated procedures apply to all allegations of research misconduct and shall be followed in response to an allegation of possible research misconduct. Particular circumstances in an individual case may dictate a variation from ordinary procedure deemed in the best interests of UNK, PHS, or other federal agency. Any change from normal procedures also shall ensure fair treatment to the subject of the inquiry or investigation. Any significant variation shall be approved in advance in writing by the Senior Vice Chancellor for Academic Affairs.

6.0 General Principles

Research Misconduct Prohibited; Standard of Proof

- UNK prohibits research misconduct. Individuals subject to this policy found to have committed research misconduct shall be subject to sanctions up to and including termination.[1]

- A finding of research misconduct requires that:
  (a) there be a significant departure from accepted practices of the relevant research community; and

[1] Termination is subject to UNK's and the Board of Regent's policies and procedures and applicable state and federal employment laws.

(b) the respondent committed the research misconduct intentionally, knowingly, or recklessly (as defined herein); and

(c) the allegation be proven by preponderance of the evidence.

- UNK bears the burden of proof for making a finding of research misconduct. The destruction, absence of, or respondent's failure to provide research records adequately documenting the questioned research is evidence of research misconduct where the institution establishes by a preponderance of the evidence that the respondent intentionally, knowingly, or recklessly had research records and destroyed them, had the opportunity to maintain the records but intentionally, knowingly, or recklessly did not do so, or maintained the records and failed to produce them in a timely manner and that the respondent's conduct constitutes a significant departure from accepted practices of the relevant research community. A respondent has the burden of going forward with, and the burden of proving, by a preponderance of the evidence, any and all affirmative defenses raised (such as honest error).

Duty to Report Research Misconduct

All individuals subject to this policy, including, without limitation, all employees, students or other individuals associated with UNK should report observed, suspected, or apparent research misconduct in accordance with the procedures outlined in this policy.

Duty to Cooperate with Inquiries and Investigations

All individuals subject to this policy shall cooperate with the IO and other institutional officials in the review of allegations and the conduct of inquiries and investigations. Institutional members, including respondents, have an obligation to provide all requested evidence and information related to such inquiries or investigations. Cooperation includes, without limitation, maintaining confidentiality and deferring to the process outlined in this policy, which is designed both to hold researchers accountable and to prevent unjust harm to a career as a result of an allegation that does not ultimately result in a finding of research misconduct.

Duty to Maintain Confidentiality

Allegations of research misconduct (even when ultimately disproved) can have serious career consequences for a researcher. Therefore, to the maximum extent permitted by applicable law, all individuals subject to this policy shall maintain the strict confidentiality of any information relating to allegations of research misconduct or a research misconduct proceeding and shall disclose such information only to those with a legitimate need to know. The IO shall limit disclosure of the identity of respondents and complainants to only those who are needed to carry out a thorough, competent, objective and fair research misconduct proceeding, and, except as otherwise prescribed by law, limit the disclosure of records or evidence.

Complainants' identities will be protected and are protected under Regent Policy 1.1.3 and through the Federal Registry 93.300.

7.0 Procedures

Reporting Misconduct

All individuals subject to this policy shall report observed, suspected, or apparent research misconduct to the Division of Research (Main Line: 308-865-8496; Contacts: http://www.unk.edu/academics/research/compliance/forms.php). If an individual is unsure whether the suspected incident falls within the definition of research misconduct, the IO may be contacted to discuss the suspected misconduct informally, including anonymously or hypothetically. Such discussions shall be confidential as set forth in the General Principles, Duty to Maintain Confidentiality. If the circumstances do not meet the definition of research misconduct, the IO will refer the individual or allegation to other offices with responsibility for resolving the problem.

Preliminary Assessment of Allegations

Upon receiving an allegation of research misconduct, the IO shall assess the allegation as soon as is feasible (usually within twenty-one (21) UNK business days of receipt of the allegation) to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified. If so, the matter must proceed to an inquiry.

Sequestration of Research Records

- On the date the respondent is notified of any allegation of research misconduct or the inquiry begins, the IO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding. This will include the inventory of records and evidence and sequestration of them in a secure manner. Where the research records or evidence encompasses data or scientific instruments or samples shared by a number of users, custody may be limited to copies of the data or evidence of such instruments or samples, so long as those copies are substantially equivalent to the evidentiary value of the instruments.
- The IO shall sequester any additional research records that become pertinent to an inquiry or investigation after the initial sequestration.
- The IO may consult with University of Nebraska legal counsel, the Office of Research Integrity in the U.S. Department of Health and Human Services (ORI), and/or the Office of Laboratory Animal Welfare in the U.S Department of Health and Human Services (OLAW) for advice and assistance in this regard.
- Where appropriate, UNK shall give the respondent copies of, or reasonable supervised access to the research records. Where the allegation is determined to be sufficiently credible and specific from the assessment the matter must proceed to an inquiry.

Inquiry

Initiation of the Inquiry

At the time of or before beginning an inquiry, the IO shall notify the respondent in writing. If the inquiry subsequently identifies additional respondents, they must be notified in writing. The president of the UNK Educational Association will be copied on this notice and the respondent(s) will be informed of their rights to involve the UNK Educational Association in their defense. The identity of the complainant will not be made available to the respondent, with all safeguards taken to protect the complainant's identity. This policy will maintain confidentiality and protect against retaliation per UNK's "Reporting Fraud/Misconduct Policy." In circumstances where confidentiality of the complainant is not possible, appropriate administrative personnel (normally the Chief Compliance Officer) will be notified of the potential for retaliation.

Purpose of the Inquiry

The purpose of the inquiry is to make a preliminary evaluation of the evidence to determine whether to conduct an investigation. The purpose of the inquiry is not to reach a conclusion about whether misconduct definitely occurred or who was responsible, and an inquiry does not require a full review of all the evidence related to the allegation. An investigation is warranted if the committee determines:

(1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct; and,
(2) the allegation may have substance, based on the committee's review during the inquiry.

The University of Nebraska at Kearney shall not discriminate based upon age, race, ethnicity, color, national origin, gender-identity, sex, pregnancy, disability, sexual orientation, genetic information, veteran's status, marital status, religion, or political affiliation. Moving to an investigation will be determined solely by the evidence found in the inquiry and whether or not the evidence satisfies criterion 1 and 2 noted above.

Inquiry Committee

The IO, in consultation with the Faculty Senate President and the UNK Educational Association (e.g., faculty union--where appropriate), and other UNK officials as appropriate (specifically, if the case involves human or animal subjects, the chair person for the IRB or IACUC, respectively, will be consulted), will appoint an inquiry committee and committee chair within ten (10) UNK business days after the initiation of the inquiry. The inquiry committee must consist of individuals who do not have real or apparent conflicts of interest with those involved with the case, are unbiased, and have the necessary scientific expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. To ensure that the committee members have the appropriate level of expertise, the inquiry committee shall, in consultation with the IO, appoint additional member(s) when special expertise is needed to evaluate allegations. Additional members could include members

from the Institutional Review Board (IRB) or Institutional Animal Care and Use Committee (IACUC).

The IO will notify the respondent of the proposed inquiry committee membership. If the respondent submits a written objection to a member or members of the inquiry committee based on bias or conflict of interest within five (5) UNK business days of notification, the Deciding Official (normally the Senior Vice Chancellor for Academic Affairs) will determine whether to replace the challenged member with a qualified substitute.

The inquiry committee will consist of at least five members, with one appointee from the faculty senate, one from the UNK Educational Association, two appointees from the Division of Research with knowledge of research misconduct proceedings (ordinarily the Director of Research Compliance (Integrity) will be named the chair of the committee), and at least one appointee with a research background similar to the respondent. The committee makeup will consist of at least half the membership being faculty. The IO, along with the President of the Faculty Senate (or their chosen delegate) and the President of the UNK Educational Association, will collectively determine if there is need for additional members based on the particulars of the case.

Inquiry Process

The IO shall deliver a charge to the inquiry committee that sets forth the committee's responsibilities and timeline. The IO and other institutional officials and outside consultants may advise the inquiry committee. The inquiry committee shall interview the complainant, the respondent, and key witnesses as well as examine relevant research records and materials. The inquiry committee will evaluate the evidence and determine whether an investigation is warranted.

Written Report

A written report will be drafted and circulated to the IO and the respondent for comment. They will have five (5) UNK working days to respond to the draft report. The inquiry committee prepared written report will adhere to applicable legal requirements that includes the following information:

(1) the name and position of the respondent;

(2) a description of the allegations of research misconduct;

(3) the Public Health Service (PHS) or other governmental or third-party support;

(4) the evidence that was reviewed;

(5) the basis for recommending or not recommending that the allegations warrant an investigation;

(6) any comments on the draft report by the respondent. The respondent shall be given a copy of the draft inquiry report together with a copy of this policy; and

(7) any comments on the draft by the IO. The IO shall be given a copy of the draft inquiry report together with a copy of this policy.

Analysis by the Institutional Official

The IO will have three (3) UNK working days to review the report and draft a recommendation for how to proceed to the Deciding Official.

The University of Nebraska Office of General Counsel may be consulted for a review of the legal sufficiency of the report and the recommendation on how to proceed. This review should be completed within fourteen (14) UNK business days.

Decision by Deciding Official

The IO will transmit the final inquiry report, any comments, and the IO recommendation to the Deciding Official as defined herein, (ordinarily the SVAA) who will make the determination of whether the findings from the inquiry indicate a reasonable basis for concluding that the allegation has sufficient substance to fall within the definition of research misconduct and that the allegation should proceed to an investigation. A determination will be made within five (5) UNK business days of receiving the written report.

Notification of Decision

The IO will notify both the respondent and appropriate UNK officials in writing of the Deciding Official's decision of whether to proceed with an investigation. This decision may not be appealed internally. If the Deciding Official determines an investigation is needed, the IO shall notify appropriate funding and oversight agencies (PHS, NSF, etc.) in writing of the decision within thirty (30) UNK working days after the Deciding Official’s decision.

Time for Completion

The inquiry, including preparation of the final inquiry report and the decision of the Deciding Official, must be completed within sixty (60) UNK working days of its initiation, unless the IO determines that circumstances warrant a longer period.

Investigation

Initiation of the Investigation

The investigation must begin within 30 UNK working days of the determination by the Deciding Official that the investigation is warranted. On or before the date on which the investigation begins, the IO must:

(1) if applicable, notify ORI and/or OLAW of the decision to begin the investigation and provide ORI and/or OLAW a copy of the inquiry report (or

comply with any other notice obligation to a government agency or other funder); (2) notify the respondent in writing of the allegations to be investigated.

Purpose of the Investigation

The purpose of the investigation is to examine the allegations and evidence in detail and determine specifically whether misconduct has been committed, as defined in accordance with the standards of proof set forth in the General Principles section ("Research Misconduct Prohibited; Standard of Proof"), above, by whom, and to what extent. The investigation committee shall pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion. If new allegations are identified, the IO must also give the respondent written notice of such allegations within ten (10) UNK working days of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation.

Investigation Committee

The IO, in consultation with the Faculty Senate President and the UNK Educational Association (e.g. faculty union--where appropriate), and other UNK officials as appropriate (specifically, if the case involves human or animal subjects, the chair person for the IRB or IACUC, respectively, will be consulted), will appoint an investigation committee and the committee chair within ten (10) UNK working days after the notification to the respondent of the investigation or as soon thereafter as practicable. The investigation committee shall consist of at least five individuals who do not have conflicts of interest in the case, and who have the necessary expertise to evaluate the evidence and issues related to the allegations, interview the principals and key witnesses, and conduct the investigation. Individuals appointed to the investigation committee may have also participated in the inquiry. To ensure that the committee members have the appropriate level of expertise, the inquiry committee shall, in consultation with the IO, appoint additional member(s) when special expertise is needed to evaluate allegations. Additional members could include members from the Institutional Review Board (IRB) or Institutional Animal Care and Use Committee (IACUC). The IO will notify the respondent of the proposed committee membership. If the respondent submits a written objection to the appointed member of the inquiry committee based on bias or conflict of interest within five (5) UNK working days, the IO will determine whether to replace the challenged member with a qualified substitute.

The investigation committee will consist of at least five members, with one appointee from the faculty senate, one from the UNK Educational Association, two appointees from the Division of Research with knowledge of research misconduct proceedings, and at least one appointee with a research background similar to the respondent. The IO, along with the Faculty Senate President (or their delegate) and the President of the UNK Educational Association, will collectively determine if there is need for additional members based on the particulars of the case. The committee makeup will consist of at least half the membership being faculty.

Investigation Process

- The IO will provide a written charge to the committee. Such charge shall describe the allegations and related issues identified during the inquiry; identify the respondent; inform the committee that it must conduct the investigation as prescribed by this policy and in accordance with applicable law; define research misconduct; and instruct the investigation committee on the burden of proof. The charge shall state that the committee is to evaluate the evidence and testimony of the respondent, complainant, and key witnesses to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, to what extent, who was responsible, and its seriousness. The committee will review procedures and standards for conduct of the investigation, including this policy and applicable federal regulations. The committee will be instructed that it is advisable to develop an investigation plan and as to the necessity for maintaining confidentiality.

- The investigation committee shall use diligent efforts to ensure that the investigation is impartial, unbiased, objective, thorough and sufficiently documented and shall include examination of all research records and evidence relevant to reaching a decision on the merits of each allegation.

- The investigation committee shall interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation.

- The investigation committee shall determine whether and to what extent research misconduct occurred.

Investigation Report

Upon completion of the investigation, a written report shall be prepared in accordance with applicable legal requirements. Such report shall, without limitation:

(1) describe the nature of the allegation(s) of research misconduct, including identification of the respondent(s);

(2) describe and document any sponsorship or federal support for the research, including PHS support;

(3) describe the specific allegations of research misconduct considered in the investigation;

(4) include the institutional policies and procedures under which the investigation was conducted;

(5) identify and analyze the key research records reviewed; and

(6) include a statement of findings for each allegation of research misconduct identified during the investigation, summarizing the basis for the investigation committee's decision and proposed corrective actions (if any).

(7) If there is a finding of research misconduct the investigation report will:

a document whether the misconduct was falsification, fabrication or plagiarism and if it was intentional, knowing or in reckless disregard;

b summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by a preponderance of the evidence that he or she did not engage in research misconduct because of honest error or a difference of opinion;

c identify the specific PHS support relevant to the misconduct

d identify whether any publications need correction or retraction;

e identify the person(s) responsible for the misconduct

f list any current support or known applications or proposals for support that the respondent has pending with non-PHS federal agencies

• The IO shall provide the respondent with a copy of the draft investigation report for comment and rebuttal. The respondent will be given thirty (30) days to review and comment on the draft report. The respondent will receive a copy of the evidence on which the report is based. The respondent shall submit comments to the IO within 30 UNK working days from the date the respondent received the draft report. The respondent's comments will be attached to the final report.

• The investigation committee shall consider and address the respondent(s)' comments on the draft report in connection with finalizing the report. The committee will have five (5) UNK working days to finalize after receiving the respondent's comments.

• The draft investigation report will be transmitted to the University of Nebraska Office of the General Counsel for a review of its legal sufficiency. This may take up to fourteen (14) UNK business days.

Analysis by the Institutional Official

The IO will have three (3) UNK business days to review the report and draft recommendations for sanctions based on the report, the respondent's rebuttal (if applicable) and any direction from the University of Nebraska Office of the General Counsel. If the IO's recommendations vary from those in the investigation committee's final report, he/she shall explain in writing and in detail the basis for rendering a different

recommendation. The IO will transmit the final report, respondent's rebuttal, and the IO analysis to the Deciding Official for a final determination.

Decision by Deciding Official

Within fifteen (15) UNK business days of receiving the investigation report, the Deciding Official will make a final determination whether to accept the final report and the subsequent IO recommendations and/or the recommended actions within the final report (with or without further modifications) or reject the recommendations and instruct the investigation committee to conduct further fact finding. If the Deciding Official's determination varies from that of the investigation committee, the Deciding Official shall explain in writing and in detail the basis for rendering a different decision, to be reported to all parties.

Notification of Decision

When a final decision is reached, the IO will notify both the respondent and the complainant in writing. The IO will inform ORI and/or OLAW (if applicable), and both the Faculty Senate and the UNKEA. In conjunction with the Deciding Official and General Council, the IO shall determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which research misconduct may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The IO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

Time for Completion

All aspects of the investigation shall be completed within 120 UNK business days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment in accordance, and sending the final report to ORI or other funding agencies as required. If unable to complete the investigation within 120 UNK business days, the IO shall request an extension in writing from any pertinent funding agencies as required. If the research is non-funded, the IO must request an extension in writing from the Deciding Official.

Corrective Action

Corrective action for research misconduct shall be based on the seriousness of the misconduct, including but not limited to, the degree to which the misconduct:

a) was intentional, knowing or reckless;

b) was an isolated event or part of a pattern; and

c) had significant impact on the research record, research subjects, other researchers, institutions, or the public welfare.

The range of corrective actions includes, but is not limited to, withdrawal or correction of all pending or published abstracts and papers emanating from the research where

misconduct was found, removal of the responsible person from the particular project, special monitoring of future work, restitution of funds as appropriate, suspension or termination of an active award, suspension of research activities, termination, expulsion, suspension, leave without pay, and/or letters of reprimand. If the corrective action results in termination or other adverse change in an employee's terms and conditions of employment, the respondent may appeal the decision through the appropriate procedures contained in the Faculty Handbook or University policy for non-faculty members. Students have appeal rights as outlined in the Student or Graduate Student Handbooks.

Reporting to the Funding Agency (including ORI)

The IO shall notify the funding agency (or agencies in some cases), including the ORI Director if applicable, in writing of the following events, among others:

- Decision to initiate a research misconduct investigation on or before the date the investigation begins;
- Transmission of the final investigation report;
- Decision to terminate an investigation for any reason without completing all regulatory requirements or as otherwise called for by this policy;
- Request for extension in the event that UNK will not be able to complete the investigation within 120 UNK working days.

The IO shall provide immediate notice to the funding agency (or agencies in some cases), including the ORI Director if applicable, when:

- The health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
- There is an immediate need to protect Federal funds or equipment or interests;
- Research activities should be suspended;
- Federal action is required to protect the interests of those involved in the research misconduct proceeding;
- It appears the research misconduct proceeding may be made public prematurely;
- The research community or public should be informed; or
- There is a reasonable indication of possible civil or criminal violation.

UNK will cooperate with ORI or other government agencies during oversight review or any subsequent administrative hearings or appeals. This includes provision of research records and evidence under the institution's control, custody, or possession and

reasonable access to persons within its authority necessary to develop a complete record of relevant evidence.

8.0 Other Considerations

Respondent Admissions

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The IO must notify ORI in advance if there are plans to close a case at the inquiry, investigation, or appeal stage on the basis that respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except:

(1) closing of a case at the inquiry stage on the basis that an investigation is not warranted; or

(2) a finding of no misconduct at the investigation stage, which must be reported to ORI, as prescribed in this policy and 42 CFR § 93.315.

Respondent Resignation/Withdrawal

If the respondent terminates UNK employment, resigns, or withdraws from school (in the case of a student) prior to completion of the inquiry or investigation, the inquiry or investigation will proceed. If the respondent refuses to participate in the proceedings, the investigation committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

Restoration of Respondent's Reputation

If UNK finds no research misconduct, and the funding agency concurs when required, the IO will undertake reasonable efforts to restore the respondent's reputation after consulting with the respondent and receiving approval from the Deciding Official. Such actions could include, for example only, notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of research misconduct was previously publicized, and expunging all reference to the research misconduct allegation from the respondent's personnel file.

Protection of the Complainant, Witnesses and Committee Members

During the research misconduct proceeding and upon its completion, regardless of whether the institution or ORI determines that research misconduct occurred, the IO will undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research misconduct in good faith and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the IO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them. The IO is responsible for implementing any steps approved by the DO.

Allegations Not Made in Good Faith

If relevant, the Deciding Official will determine whether the Complainant's allegations of research misconduct were made in good faith. If an allegation was not made in good faith, the Deciding Official will determine if any administrative action should be taken against the Complainant. UNKEA and the Professional Conduct Committee will be notified that administrative actions are being considered. The Respondent will have access to that information.

Interim Administrative Actions

UNK officials shall take interim administrative actions, as appropriate, to protect Federal funds and ensure that the purposes of the Federal financial assistance are carried out. Additionally, UNK officials shall take interim administrative actions, as appropriate, to protect human subjects, animal subjects, and the public.

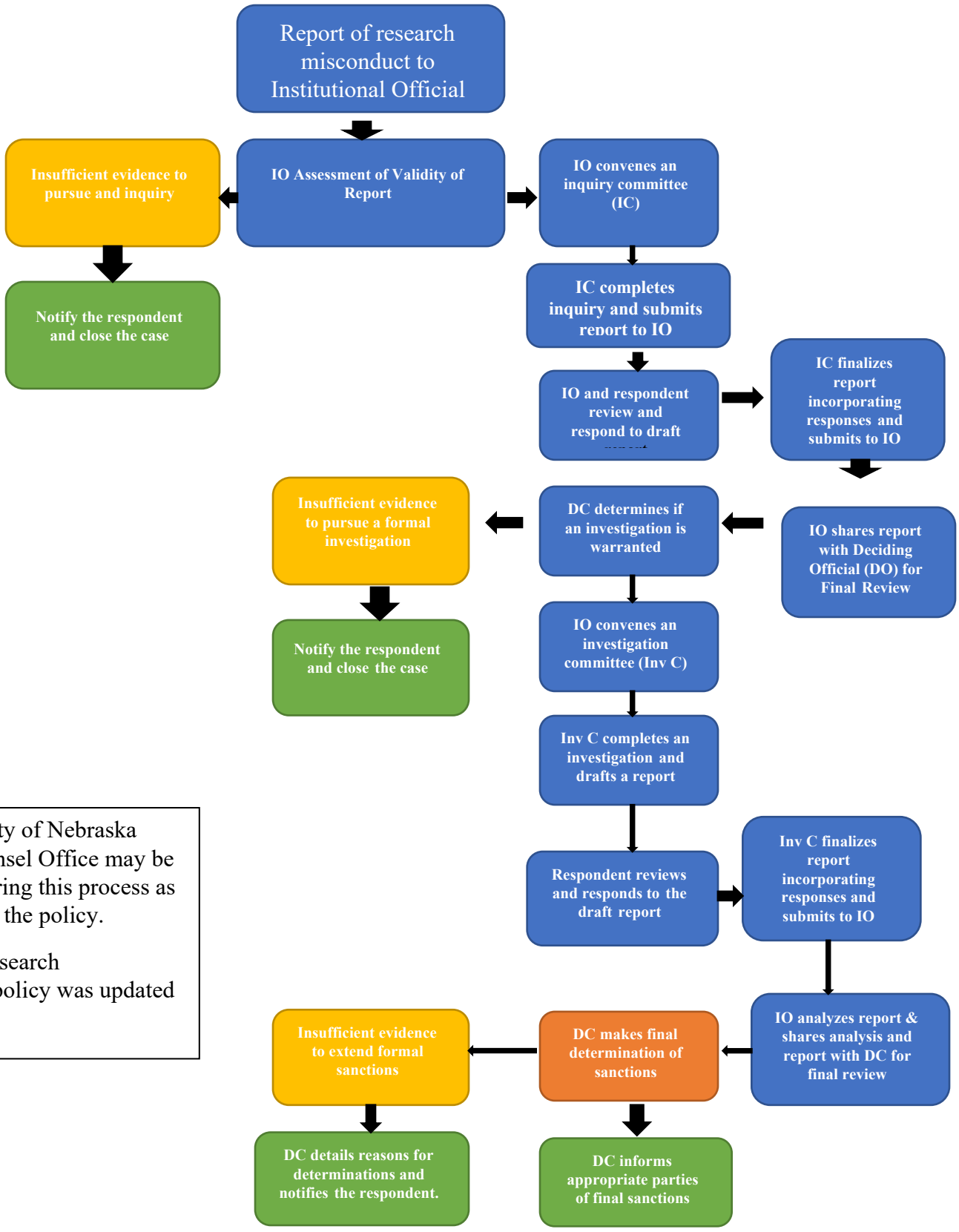
Record Retention

The IO is delegated responsibility for preparing and maintaining all documentation gathered or generated during an inquiry and investigation. All records shall be maintained in a secure manner for at least seven years after completion of the UNK case. Federal funding and oversight agencies will be given access to the records upon request.

9.0 History

This policy updates the previous policy last revised 01/06/2020.

10. Flow Chart of Process (Internal actions only)



The University of Nebraska General Counsel Office may be consulted during this process as articulated in the policy.

The UNK Research Misconduct policy was updated 12.26.2023