

RESPONSIBLE CONDUCT OF RESEARCH AND SCHOLARLY ACTIVITIES:  
PROCEDURES FOR RESPONDING TO ALLEGED RESEARCH MISCONDUCT

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**RESPONSIBLE CONDUCT OF RESEARCH AND SCHOLARLY ACTIVITIES:  
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**I. INTRODUCTION**

The reputation of the University of Massachusetts Dartmouth rests, in part, on its faculty's, staff's and students' dedication to objective inquiry and their uncompromising pursuit of truth. Integrity in the conduct of research is essential, and must be scrupulously and vigorously maintained. Any breach of this integrity, no matter how small, tarnishes the University's reputation and the credibility of all its faculty, staff and students, and hinders the pursuit of new knowledge. The University of Massachusetts Dartmouth hereby reaffirms its commitment to research integrity.

This document provides the procedures that will be followed on the University of Massachusetts Dartmouth campus to implement the Board of Trustees *Policy on Responsible Conduct of Research and Scholarly Activities*. **These procedures also adhere to the policies of the United States Public Health Service (PHS) at 42 CFR Part 93, the National Science Foundation (NSF) at 45 CFR Part 689, and other relevant federal and state agencies.**

These procedures apply to all research and scholarly activities carried out by all persons paid by, under the control of, or affiliated with the University of Massachusetts Dartmouth, such as faculty members (including temporary faculty members), students and other trainees, fellows, professional and technical staff members, guest researchers, honorific appointees, and research collaborators. Cases of alleged misconduct involving students are subject to the normal disciplinary rules governing students, but will be reviewed, as appropriate, under the procedures described in this document.

**II. STATEMENT ON RESPONSIBLE CONDUCT OF RESEARCH AND SCHOLARLY ACTIVITIES**

The University of Massachusetts Dartmouth requires that all research and scholarly activities be conducted with strict adherence to the highest possible professional, ethical, and legal standards. Research misconduct is harmful to the University's teaching, research, and public service missions and cannot be tolerated. We accept our dual responsibilities to provide an environment that promotes integrity of research and scholarly activities, and to establish and enforce procedures to ensure objective, equitable, and expeditious due process for all allegations and inquiries of misconduct. Because an allegation of misconduct, even if unjustified, may damage an individual's career, any such allegation must be handled in a prudent and confidential manner with full attention given to the rights of all individuals involved.

**III. DEFINITIONS**

**A. Research and Scholarly Activities**

Research and scholarly activities include many academic activities undertaken by faculty members (including temporary faculty members), students and other trainees, fellows, professional and technical staff members, guest researchers, honorific appointees, and research collaborators. Research and scholarly activities may be unfunded, funded by the University of Massachusetts Dartmouth, or funded by an external agency or entity. Research and scholarly activities include but are not limited to:

- Basic, applied, and demonstration research, including laboratory research, fieldwork, observational studies, survey research, case studies, scholarship in the humanities, and artistic expression.

- Presentations, performances, or publication of the results of research, scholarship, and creative activities.
- The process of applying for funds to support research, scholarship, and creative activities.
- The review of the research and scholarly activities of others, including that of students.
- Programmatic and fiscal reporting on the use of sponsored program funds that support research, scholarship, and creative activities.

#### **B. Research Misconduct Defined**

Research misconduct is fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data.

The following are examples of research misconduct. This list serves only as a guide and does not include all activities that would constitute misconduct:

- Falsification, modification, or fabrication of data or facts, or selective inclusion or exclusion of data or facts for the purpose of misleading or supporting false conclusions.
- Taking credit for the work of another, including taking credit for someone else's work, ideas, or methods; copying the writing of others without proper acknowledgment; or otherwise taking credit falsely.
- Use or release of information given under the understanding of confidentiality, including taking ideas from documents to which access was given under rules of confidentiality, such as when reviewing grant proposals, invention disclosures, applications for scholarly prizes, or manuscripts submitted for publication.
- Violations of federal, state or local governmental rules and regulations, or university policies dealing with the protection of human or animal subjects in research, use of dangerous or hazardous substances, improper use of recombinant DNA, and mishandling of radioactive materials.
- Publishing or public circulation of material intended to mislead the reader, including misrepresenting data (particularly its origins) or adding or deleting the names of other authors without the latter's consent.
- Violations of research-related property rights, including the deliberate taking or destruction of the research-related property of others, such as data, research papers, notebooks, equipment, tangible research materials, or supplies.
- Any act of retaliation directed against any person who suspects or reports an allegation of misconduct shall be treated as an additional allegation of misconduct and subject to the procedures in this document.

### **IV. RESPONSIBILITIES**

#### **A. Personnel Engaged in Research and Scholarly Activities**

All personnel engaged in research and scholarly activities—faculty and staff members, students, and administrators—are responsible for maintaining the highest professional, ethical, and legal standards in their research and scholarly activities. Principal investigators and faculty researchers,

in particular, bear an increased responsibility with regard to the members of his or her research group. In particular, they must assure:

- The highest possible professional, ethical, and legal standards in the conduct of research and scholarly activity are communicated to and maintained by all who work under their supervision, directly or indirectly;
- The accuracy and validity of all information communicated by their research group;
- The correct citation of contributions from those within and outside each research group; and
- The assignment of co-authorship based upon scientific involvement and responsibility for the work reported.

Although collaborative relationships between investigators are based on trust, joint review of research procedures, data, reports, and publications is a shared responsibility of all members of the research team, even when long-distance collaboration necessitates unique review procedures.

#### **B. Members of the University of Massachusetts Dartmouth Community**

All members of the University of Massachusetts Dartmouth community are obligated to report in good faith observed or apparent research misconduct, or what they believe to be an activity that could be construed as possible research misconduct. It is not necessary that someone filing a complaint be directly affected negatively by the alleged actions; it is sufficient that the complainant believe in good faith that misconduct has occurred. The research misconduct allegation must be reported within sixty (60) days of the date of the complainant discovering the alleged research misconduct.

Informal requests for guidance about whether suspected misconduct meets the definition of research misconduct are encouraged and shall be directed to the chief research officer or other administrators (e.g., Director of the Institutional Compliance and Ethics, dean of a college or school, or Provost), will not, in itself, be construed as an allegation of research misconduct that invokes these procedures. Because an informal request for guidance is not an allegation, it does not stop the sixty (60) day required reporting deadline for allegations of research misconduct.

The identity of persons reporting possible misconduct will be protected to the extent consistent with the objective, fair, and expeditious handling of the allegation. Those individuals who provide information in good faith about possible misconduct will be protected against reprisals.

All members of the University of Massachusetts Dartmouth community are obligated to cooperate with the individuals directing any proceedings that implement the procedures in this document, and will provide any and all information requested that relates to an allegation of research misconduct.

#### **C. Administrators**

While all members of the campus community are responsible for ensuring the integrity of research and scholarly activities, the provost and the chief research officer are primarily responsible for implementing the procedures presented in this document concerning possible research misconduct. They shall provide for widespread dissemination of these procedures and shall promptly implement these procedures when allegations of research misconduct are reported. In the event of a determination of research misconduct, the provost shall impose appropriate sanctions or penalties.

The chief research officer or designee shall maintain accurate research misconduct records and, when required, shall provide necessary reports in a timely manner to relevant federal and state agencies. Records shall be retained for a period of seven (7) years. The chief research officer or designee shall represent the interests of the University of Massachusetts Dartmouth when allegations of research misconduct are made about present or former research personnel that involve outside institutions.

## **V. TIMELINESS**

Time is of the essence in responding to an allegation of research misconduct. Deadlines cited in these procedures are required by federal statute(s) and regulation(s). They are intended to serve as the outside limits within which actions must occur. All persons responsible for administering these procedures shall meet all deadlines. Under specific circumstances deadlines may necessitate extension, in such cases, administrators shall document in writing the reasoning for any extension; such documentation shall be retained with the relevant record or file.

## **VI. CONFIDENTIALITY**

Justice requires that the legal rights, as well as the right of academic freedom, of both the complainant—the individual alleging research misconduct, and the respondent(s)—the person(s) alleged to have engaged in research misconduct, and any other parties affected by alleged misconduct, including research subjects, and students, be protected. The University of Massachusetts Dartmouth will make every effort to protect these rights and will undertake to prevent any action that threatens or compromises them.

Subject to federal statutory and regulatory disclosure requirements, the disclosure of the identity of respondents and complainants in research misconduct proceedings is limited, to the extent possible, to those who need to know. In particular, confidentiality shall be maintained for any records or evidence from which research subjects might be identified. All those who are involved in any aspect of the proceedings described in these procedures shall protect the privacy and confidentiality of both the complainant and the respondent(s) to the maximum extent possible.

## **VII. RETALIATION**

The University of Massachusetts Dartmouth shall not penalize any individual—complainant, witness, administrator, faculty, student, or staff—for their participation in the procedures described below. Complaints of retaliation should be addressed to the chief research officer who may consult with Human Resources and shall advise the injured party of his or her rights in the matter. Any act of retaliation directed against any person who suspects or reports an allegation of misconduct shall be treated as an additional allegation of misconduct and subject to the procedures in this document.

## **VIII. NON-PARTICIPATION BY THE RESPONDENT**

Throughout the various components of the procedures described below, if a respondent fails to respond to a request for information or to participate in a process, the chief research officer shall notify the provost of that fact and the provost shall take appropriate action in accordance with the policies of the University of Massachusetts. Furthermore, a respondent shall not prevent the procedures described below from proceeding by his or her silence or absence, or by termination of employment, or by resignation of his or her position. Failure to participate may result in the process proceeding to a conclusion solely on the basis of the complainant's testimony and evidence.

## **IX. SANCTIONING PERSONS WHO BRING MALICIOUS ALLEGATIONS**

If it is determined that allegations of research misconduct were made under malicious or dishonest circumstances, or with reckless or willful ignorance of facts that would disprove the allegation, the provost shall bring appropriate action against the persons involved consistent with personnel policies of the University of Massachusetts and with collective bargaining agreements in force at the time.

## **X. PROCEDURES FOR PRELIMINARY REVIEW OF ALLEGED RESEARCH MISCONDUCT**

### **A. Complaint**

1. A complainant will have sixty (60) days following the discovery of an alleged violation to file a complaint unless he or she can show good reason (as determined by the chief research officer) for having that deadline waived.
2. A complaint alleging research misconduct should be delivered to the chief research officer. Any other person receiving a complaint shall forward it in a prompt manner to the chief research officer.
3. Upon receipt of a complaint alleging research misconduct, the chief research officer shall forward the complaint to the Dean of the College within which the alleged research misconduct occurred. If the alleged misconduct involves multiple colleges the chief research officer, at his or her discretion, shall select one dean to complete a preliminary review of the allegation. The dean shall inform the respondent(s) of the alleged misconduct and, if the respondent(s) so desire(s), receive an account(s) or statement from the respondent(s).
4. The dean shall within seven (7) days of the receipt of the complaint, complete a preliminary review of the complaint to determine: (1) whether it should be characterized as an allegation (as opposed to an informal requests for guidance); (2) involves a research or scholarly activity (see III.A); (3) that falls within the definition of research misconduct (see III.B); and (4) is sufficiently credible and specific so that potential evidence of research misconduct may be identified.
5. To make this determination, the dean need not but may gather information beyond that submitted with the complaint and informally on a confidential basis confer with others in the university community as appropriate. The preliminary review shall be conducted so as to preserve, insofar as possible, the confidentiality of the inquiries made and of the information gathered.
6. If the dean finds that the complaint should not be characterized as an allegation of misconduct because it does not involve a research or scholarly activity, falls outside the definition of research misconduct, or is not sufficiently credible and specific so that potential evidence of research misconduct may be identified, then the complaint will be referred to a different administrative process or closed without further proceeding of any kind. If a complaint is closed, then no record will be maintained other than a confidential written report maintained by the chief research officer or designee stating the reasons the complaint was closed. The written report will not be referenced or included in any personnel or other official record of either the complainant or of the respondent(s). The chief research officer shall notify the complainant of the determination that the complaint was closed. The complainant may appeal the decision of the dean to the chief research officer in writing, specifying the factual basis for reversing the decision, and the chief research officer shall make the final decision on whether to proceed with an inquiry. In

addition, the chief research officer and dean shall undertake, as appropriate, reasonable and practical efforts to alleviate any diminution of the reputation(s) of the respondent(s) and to alleviate any diminution of the reputation of the complainant who has in good faith made the allegation of research misconduct, and to protect against and counter any potential or actual retaliation against the complainant.

7. If the dean finds: (1) it is an allegation (as opposed to an informal requests for guidance); (2) that involves a research or scholarly activity (see III.A); (3) that falls within the definition of research misconduct (see III.B); and (4) is sufficiently credible and specific so that potential evidence of research misconduct may be identified then the allegation of misconduct shall proceed to the inquiry phase. The dean shall inform the complainant, the respondent(s), and chief research officer in writing of his or her decision.
8. The respondent(s) has (have) the right to submit to the dean written comments concerning the preliminary review outcome, which comments will be attached and included thereafter with the preliminary review outcome.
9. As necessary and whenever possible before or concurrently with the dean's notification to the respondent of the allegation, the chief research officer shall take interim administrative actions, as necessary and appropriate, to protect any research records until all proceedings relating to the alleged misconduct are complete. In particular, the chief research officer shall take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner. Where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. However, where appropriate, the respondent(s) shall be given copies of, or reasonable, supervised access to the research records. In addition, if the research and scholarly activities are sponsored by an external entity, the chief research officer shall take appropriate actions to protect sponsor funds and equipment and ensure that the purposes of the external funding are carried out.
10. The chief research officer shall immediately determine whether a federal or state law or policy (e.g., DHHS or NSF) concerning research misconduct applies and, if it does, conform also to its requirements throughout the application of the procedures described below. This may require immediate notification of the federal or state agency, appropriate interim action(s) to safeguard research data or materials or to protect agency funds and equipment, or periodic reporting to and consultation with agency officials. For example, in cases of alleged research misconduct involving sponsorship by the U.S. Department of Health and Human Services (DHHS), the chief research officer is required to immediately notify its Office of Research Integrity (ORI) if it is ascertained that any of the following conditions exist: (a) the health or safety of the public is at risk, including an immediate need to protect human or animal subjects; (b) federal resources or interests are threatened; (c) research activities should be suspended; (d) there is reasonable indication of possible violations of civil or criminal law; (e) federal action is required to protect the interests of those involved in the research misconduct proceeding; (f) it is probable that the research misconduct proceeding may be made public prematurely and the agency may wish to safeguard evidence and protect the rights of those involved; or (g) the research community or public should be informed.

11. A complainant may withdraw a complaint alleging research misconduct at any time after it has been filed, provided the respondent(s) agrees (agree) to the withdrawal; but withdrawal of the complaint will not result in termination of the research misconduct procedure, provided the chief research officer concurs with the dean's determination that the allegation involves a research or scholarly activity (see III.A); that falls within the definition of research misconduct (see III.B); and is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

**B. Inquiry.**

1. The chief research officer, upon receipt of the dean's determination that a complaint alleging research misconduct involves a research or scholarly activity (see III.A); that falls within the definition of research misconduct (see III.B); and is sufficiently credible and specific so that potential evidence of research misconduct may be identified, shall within seven (7) days, refer the matter to the Research Misconduct Investigatory Committee (RMIC) to conduct an inquiry. The purpose of the inquiry is to conduct an initial review of the evidence to determine whether to conduct an investigation.
2. The Research Misconduct Investigatory Committee (RMIC) consists of: (1) the chief research officer serves as chair (Provost appointee); (2) a faculty member appointed by the President of the Faculty Federation; (3) the chairperson of the faculty senate research committee or his/her designee; and (4) *ex officio and non-voting*, the director of research compliance. The RMIC shall complete their inquiry within 60 days of initiation and shall maintain confidentiality (see VI).
3. No one who has any real, apparent, or potential personal, professional, or financial conflicts of interest shall serve on the RMIC. If one of the RMIC members has such a conflict he/she must be replaced for the duration of the inquiry. The replacement RMIC member will be appointed by either the Provost, Faculty Federation President or Faculty Senate President, depending on which member is conflicted.
4. The RMIC shall notify the respondent(s) in writing of the alleged misconduct, that an inquiry is proceeding, and inquire if the respondent(s) so desire(s), to provide an account(s) or statement to the RMIC.
5. The RMIC, acting through the chief research officer, to the extent it has not already been done at the preliminary review stage, on or before the date on which the respondent is notified or the inquiry begins, whichever is earlier, will promptly take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments.
6. The RMIC inquiry's purpose is to decide if an allegation warrants an investigation. An investigation is warranted if there is: (a) a reasonable basis for concluding that the allegation involves research and scholarly activities and falls within the definition of research misconduct (III.A and B); and (b) preliminary information-gathering and preliminary fact-finding from the inquiry indicates that the allegation may have substance.

7. To determine if an allegation warrants an investigation, the RMIC shall review the complaint and related documents, gather relevant information, conduct preliminary fact finding, and interview affected parties, including the complainant and the respondent(s), and others in the university community.
8. The RMIC shall complete its inquiry and issue its final written report within thirty (60) business days. Any need for additional time to complete the inquiry must be documented in writing.
9. The RMIC may take actions or decisions by simple majority vote.
10. The RMIC may dismiss the allegation. In such circumstances the case will be closed as described in X.A.6.
11. The RMIC may find the allegation to have substance. The committee shall then refer the allegation to the Provost for investigation.
12. At any point during the inquiry, should the respondent admit to misconduct in writing and sufficient substantive evidence supports the admission, a settlement with the respondent(s) has been reached, or for any other reason, then the inquiry may be closed provided no further action is required other than advanced notifications required by Federal or State law (See X.E Advance Notice of Admissions, Settlements or Other Action).
13. The chief research officer will prepare the final written report from the RMIC consisting of a summary of the evidence reviewed, summaries of relevant interviews, the committee's findings and the reasons therefore, and the committee's recommendation concerning whether to proceed with dismissal or investigation; or alternatively, the respondent's admission of misconduct and sufficient substantive evidence, the settlement, or reasoning for any other action. A copy of the report will be provided to the respondent(s), the complainant, and to other parties who, because of law or policy (e.g., state or federal agencies), have a right to receive the report.
14. The respondent(s) has (have) the right to submit to the chief research officer written comments concerning the final report of the RMIC, which comments will be attached and included thereafter with the report.
15. If the final decision is to proceed with formal investigation, then the chief research officer shall, as required under existing federal and state law or policy (including the 30 day requirement of 42 CFR Part 93, if applicable) and as may be required by the grant or contract terms and conditions of a sponsoring agency, notify any appropriate agency or entity of the alleged research misconduct and the decision to proceed with an investigation no later than on or before the date on which the investigation begins. In addition, the chief research officer shall continue to safeguard the research records and evidence and to protect agency funds and equipment.
16. If the final decision is not to proceed with an investigation, then the chief research officer shall, as required under existing federal and state law or policy and as may be required by grant or contract terms and conditions of a sponsoring agency, notify any appropriate agency or entity of the outcome of the inquiry. In addition, the chief research officer shall undertake, as appropriate, all reasonable and practical efforts to alleviate any diminution of the reputation(s) of the respondent(s) and to alleviate any diminution of the reputation of the complainant who has in good faith made the allegation of research misconduct, and to protect against and counter any potential or actual retaliation against the

complainant. The chief research officer shall undertake, as appropriate, all reasonable and practical efforts to alleviate any diminution of the reputation of any member of the RMIC and to protect against and counter any potential or actual retaliation against such member.

17. The RMIC investigation must be completed within 60 calendar days of its initiation unless circumstances clearly warrant a longer period. If the investigation takes longer than 60 days to complete, the record must include documentation of the reasons for exceeding the 60-day period.

### **C. Investigation**

1. In those cases of alleged research misconduct when the outcome of the inquiry is to proceed with an investigation, then the chief research officer shall, within five (5) business days, empanel a Hearing Panel to conduct an investigation. The purpose of the investigation is to determine whether research misconduct, as defined above, has occurred, and, if so, to recommend appropriate sanctions or penalties. The investigation shall be conducted so as to preserve, insofar as possible, the confidentiality of the inquiries made and of the information gathered.
2. For an allegation of research misconduct to be considered by a Hearing Panel, it must be reduced to the form of a signed statement setting forth clearly and concisely the alleged misconduct. The complainant who brought the misconduct allegation to the attention of the chief research officer, especially in circumstances in which the complainant has been directly affected by the alleged misconduct, ordinarily will prepare and sign the complaint. In cases in which the alleged misconduct has no specific alleged victim, then the chief research officer shall prepare and sign the complaint. In all cases, the signatory to the complaint becomes the complainant in the proceedings of the Hearing Panel.
3. The Hearing Panel will consist of four tenured faculty, at least two (2) of whom shall be nominated by the President of the Faculty Federation. The remaining members are nominated by the chief research officer. The faculty appointed should have experience in research, and be sufficiently removed from the accused to avoid the appearance of any conflict of interest in the outcome of the investigation. The Hearing Panel will include members with the necessary and appropriate expertise to carry out a thorough and authoritative evaluation of the relevant evidence. Experts in the University of Massachusetts Dartmouth community who are from disciplines appropriate to the nature of the particular alleged misconduct may be appointed to the panel. No one who has any real, apparent, or potential personal, professional, or financial conflicts of interest shall be appointed to the panel. The panel members shall select one member of the panel to serve as presiding officer. The presiding officer is a non-voting member of the Hearing Panel.
4. The chief research officer shall notify the respondent in writing of the allegations within a reasonable amount of time after determining that an investigation is warranted, but before the investigation begins. The chief research officer must give the respondent written notice of any new allegations of research misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of investigation.
5. Before the Hearing Panel is convened, both the respondent(s) and the complainant shall have the right to object to the appointment of any individual as a member of the Hearing

Panel on the grounds that the individual is biased. The chief research officer shall determine whether any objections have merit and shall judge whether a proposed panel member will be seated.

6. Before the date of the hearing, the complainant and the respondent(s) shall meet with the presiding officer to clarify the issues and to establish areas of agreement and disagreement. To encourage a fair and focused investigation, the presiding officer shall notify the Hearing Panel at the start of its proceedings about points of agreement and disagreement among the parties.
7. The presiding officer shall:
  - a. Ensure an orderly presentation of all relevant evidence;
  - b. Ensure that the proceedings are recorded electronically, and then summarized;
  - c. Ensure that no individuals responsible for carrying out any part of the proceeding have any real, apparent, or potential personal, professional, or financial conflicts of interest with the complainant, respondent(s), or witnesses; and
  - d. Ensure all aspects of the investigation are completed within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report respondent's comment, and sending the final report per any applicable federal and state law or policy concerning reporting requirements (see 42 CFR 93.315).
  - e. See that an impartial decision based on the evidence presented at the hearing is issued by the Hearing Panel no later than ten (10) business days after the conclusion of the hearing or, if written comments are submitted to the panel after the hearings conclude, within ten (10) business days after their submission. Any need for additional time to complete the hearings must be documented in writing and approved by the vice provost for research.
8. The Hearing Panel shall conduct a full, fair, and objective hearing, which ensures all the rights of all parties involved, to hear testimony and consider evidence related to the complaint, including grant or contract files, research data, reports, scholarly publications, manuscripts, correspondence, computer files, laboratory records, correspondence, memoranda, e-mail messages, and notes of telephone conversations. The investigations may also include inspection of laboratory or clinical facilities, equipment, or materials. The panel may review previous research and scholarly activities of the affected personnel, or records of previous inquiries or investigations concerning allegations of misconduct by the respondent(s), if relevant to the investigation. The Hearing Panel 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. The hearing, although formal, is not a court proceeding and the Hearing Panel shall not be bound by the procedures and rules of evidence of a court of law.
9. During the hearing, the Hearing Panel shall:
  - a. Define issues of contention;
  - b. Receive, consider, and admit evidence pertinent to the complaint;

- c. 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 electronically record each interview, provide the recording or transcript to the interviewee for correction, and include the recording in the record of the investigation;
  - d. Ensure that the complainant and respondent(s) has (have) the opportunity to hear and respond orally and in writing to any testimony, to examine all evidence, present their claims orally or in writing, and to present evidence and query witnesses on the issues in contention;
  - e. Continue the hearing to a subsequent date if necessary to permit the complainant and respondent(s) to produce additional evidence, witnesses, or other relevant materials;
  - f. Change the date, time or place of the hearing on its own motion or for good reason shown by the complainant and respondent(s), and with due notice to all parties;
  - g. Permit the complainant and respondent(s) to submit written comments within ten (10) business days after the conclusion of the hearing; and
  - h. Rule by majority vote of its members on all questions of fact, interpretations of rules, regulations and policies, recommendations for sanctions or penalties, and any requests that are made during the hearing.
10. The Hearing Panel shall conduct its hearings by the following procedures:
- a. Unless otherwise agreed by a majority of the Hearing Panel, a closed hearing will be convened within ten (10) business days after the Hearing Panel has been empaneled by the vice provost for research.
  - b. The presiding officer of the Hearing Panel may consult with the Office of the General Counsel and may request representation by the Office of the General Counsel during the hearing.
  - c. The presiding officer of the Hearing Panel may request that the chief research officer identify experts from outside the university community who may serve as consultants in the panel's review of materials, physical evidence, and the testimony of witnesses.
  - d. At the time of the empanelment of the Hearing Panel, the respondent(s) shall be notified of their right to be represented by an attorney, at their own cost and expense, in preparing and/or giving their response to this and all subsequent phases of the investigation. In the proceedings, the complainant and respondent(s) will be expected to speak for themselves and no attorney for the respondent(s) may address the Hearing Panel.
  - e. The Hearing Panel shall record the hearing electronically and the records will become the property of the University of Massachusetts. Subsequent to the hearing, the complainant and respondent(s) may have supervised access to the records by application to the chief research officer.
11. The proceedings before the Hearing Panel shall be as follows:
- a. The presiding officer shall read the complaint and ask the respondent(s) either to admit or to challenge each and all allegation(s).

- b. The complainant may present a brief opening statement, followed by a brief opening statement from the respondent(s).
  - c. The panel shall give the complainant and respondent(s) the opportunity to present all relevant evidence, beginning with the complainant.
  - d. The complainant may present a brief concluding statement, followed by a brief concluding statement from the respondent(s).
  - e. The complainant and respondent(s) may submit written comments within ten (10) business days after the conclusion of the hearing, provided that he or she has notified the presiding officer of his or her intention to submit written comments within two (2) business days after the conclusion of the hearing, which comments will be attached and included thereafter with the report. The Hearing Panel will consider such comments and, as appropriate, incorporate responses to such comments in the final written report of the panel.
  - f. The Hearing Panel, by a majority vote of its members, may make other rules concerning proceedings that it deems appropriate to carry out the purpose of the panel.
12. All aspects of the investigation must be completed within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment to respondent(s) and complainant, and sending the final report to ORI or other applicable agency. Any need for additional time to complete the investigation must be documented in writing and must be submitted by the Hearing Panel for approval by the chief research officer. If unable to complete the investigation in 120 days, the chief research officer will ask ORI or other applicable agency for an extension in writing.
13. The chief research officer shall, during the investigation, conform to any and all applicable federal and state law or policy concerning reporting requirements. If facts are disclosed during the investigation that may affect current or potential federal or state funding of any respondent(s), then the chief research officer shall take the necessary and appropriate steps to inform the relevant federal or state agency to ensure appropriate use of federal or state funds and otherwise safeguard the public interest.
14. After the hearing is completed, the Hearing Panel shall convene for private deliberations to determine if, based upon the testimony and evidence, research misconduct on the part of the respondent(s) has occurred. In accordance with federal regulations, a finding of misconduct requires that (a) there be a significant departure from accepted practices of the relevant research community; (b) the misconduct be committed intentionally, knowingly, or recklessly; and (c) the allegation be proven by a preponderance of evidence (more likely true than not).
15. The Hearing Panel shall draft a written report of the investigation. The report shall:
- a. Describe the nature of the allegations of research misconduct.
  - b. Describe and document the research funding/ support, including, for example, any grant numbers, grant applications, contracts, and publications listing PHS/NSF support.

- c. Describe the specific allegations of research misconduct for consideration in the investigation.
  - d. Reference these institutional policies and procedures under which the investigation was conducted.
  - e. Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody but not reviewed.
  - f. 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—
    - i. Identify whether the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;
    - ii. Summarize the facts and the analysis which support the conclusion and consider the merits of any reasonable explanation by the respondent;
    - iii. Identify the specific funding / support;
    - iv. Identify whether any publications need correction or retraction;
    - v. Identify the person(s) responsible for the misconduct; and
    - vi. List any current support or known applications or proposals for support that the respondent has pending and the funding / sponsoring entities or agencies.
  - g. Include and consider any comments made by the respondent and complainant on the draft investigation report.
  - h. The Chief Research Officer or designee shall maintain for seven (7) years, and provide to sponsor / funding agency upon request all relevant research records and records of the institution's research misconduct proceeding, including results of all interviews and the transcripts or recordings of such interviews.
16. The handling of the final written report will proceed as follows:
- a. The final written report of the Hearing Panel will describe how the hearing was conducted, provide an accurate summary of the views of the complainant and of the respondent(s), include a comprehensive record of the evidence that was examined and the sources of that evidence, indicate the facts established by the panel, and state the finding of the panel concerning whether research misconduct on the part of the respondent(s) has occurred and the reasons for the finding.
  - b. If the Hearing Panel finds that research misconduct has not occurred, then the presiding officer shall recommend to the chief research officer that the matter be closed. The chief research officer shall undertake, as appropriate, all reasonable and practical efforts to alleviate any diminution of the reputation(s) of the respondent(s) and to alleviate any diminution of the reputation of the complainant who has in good faith made the allegation of misconduct, and to protect against and counter any potential or actual retaliation against the complainant. The chief research officer shall undertake, as appropriate, all reasonable and practical efforts to alleviate any diminution of the reputation of any witnesses and any member of the Hearing Panel, and to protect against and counter any potential or actual retaliation against them.

- c. If the Hearing Panel finds that research misconduct has occurred, then the panel shall recommend that the Provost impose sanctions or penalties that reflect the nature and severity of the misconduct. The chief research officer shall undertake, as appropriate, all reasonable and practical efforts to alleviate any diminution of the reputation of the complainant who has in good faith made the allegation of misconduct, and to protect against and counter any potential or actual retaliation against the complainant. The chief research officer shall undertake, as appropriate, all reasonable and practical efforts to alleviate any diminution of the reputation of any witnesses and any member of the Hearing Panel, and to protect against and counter any potential or actual retaliation against them.
  - d. The respondent(s) has (have) the right to review the final written report of the Hearing Panel and to submit to the presiding officer written comments, which comments will be attached and included thereafter with the report.
  - e. The presiding officer shall transmit the final written report of the Hearing Panel, with any attachments, to the complainant, the respondent(s), the chief research officer, and the provost. The provost shall review the report and make the final decision in the matter.
17. The respondent(s) will be given a copy of the draft written report of the panel and, concurrently, a copy of, or supervised access to, the evidence on which the report is based. The comments of the respondent(s) on the draft report, if any, must be submitted within 30 days of the date on which the respondent received the draft report. Likewise, the complainant will be given a copy of the draft written report of the panel or relevant portions of that report. The comments of the complainant, if any, must be submitted within 30 days of the date on which the complainant received the draft written report or relevant portions of it. The chief research officer and the Hearing Panel shall consider and address the respondent(s) and complainant comments before issuing the final written report of the panel, which comments will be attached and included thereafter with the report.
18. At any point during the investigation, should the respondent admit to misconduct in writing and sufficient substantive evidence supports the admission, a settlement with the respondent(s) has been reached, or for any other reason, then the investigation may be closed provided no further action is required other than advanced notifications required by Federal or State law (See X.E Advance Notice of Admissions, Settlements or Other Action).

**D. Adjudication and Appeal**

- 1. The Provost, after consultation with the presiding officer of the Hearing Panel and the chief research officer, shall act upon the recommendations of the Hearing Panel within ten (10) business days of their receipt.
- 2. When imposing sanctions or penalties, the provost may take into account any prior record of violations by the respondent(s) of university policies.
- 3. Sanctions or penalties imposed by the provost on the respondent(s) will be consistent with personnel policies of the University of Massachusetts and with collective bargaining agreements in force at the time of the decision, i.e., with the Massachusetts Board of Regents of Higher Education and the American Federation of Teachers, Local 1895, AFL-CIO, and Faculty Federation at the University of Massachusetts Dartmouth. If other

bargaining unit personnel, not covered under the above agreement, are involved, then the terms of the prevailing agreement between the Massachusetts Board of Regents of Higher Education and the bargaining unit to which the employee belongs will prevail. Any employee, not a member of a bargaining unit, found to be directly involved in misconduct, shall be disciplined in a manner to be determined by the chancellor of the University.

4. The sanctions or penalties imposed may include, but are not limited to:
  - a. Letter of reprimand to be included in the personnel file(s) of the respondent(s);
  - b. Removing the respondent(s) from the particular research or scholarly project;
  - c. Monitoring of the future research and scholarly activities of the respondent(s);
  - d. Probation, suspension, or debarment from engaging in research and scholarly activities;
  - e. Withdrawing or correcting pending or published materials (e.g., abstracts, reports, papers, articles, manuscripts) that resulted from the research and scholarly activities in which misconduct was found;
  - f. Restitution of funds to the agency sponsoring the research and scholarly activities in which misconduct was found; or
  - g. Employment probation, demotion, suspension with or without pay, rank or salary reduction, and termination of employment.
5. Sanctions or penalties are subject to additional review or grievance only as specified in collective bargaining agreements in force at the time of the decision.
6. Sanctions or penalties imposed by the Provost will not affect, or be affected by, any sanctions or penalties that may be imposed upon the respondent(s) separately by appropriate federal or state agencies or an external funding agency.
7. The decision of the Provost shall be forwarded in writing to the complainant, the respondent(s), the chief research officer, and the presiding officer of the Hearing Panel. The provost shall provide specific explanations of any change in the panel's recommendations contained in its final written report.
8. The chief research officer shall inform in writing the appropriate department chairperson or supervisor and the appropriate dean of the final disposition of the matter.
9. The respondent(s) may appeal the decision of the provost to the chancellor by filing a written petition within ten (10) business days after receipt of the provost's decision. The decision of the chancellor shall constitute the final disposition of the matter and no further administrative appeals will be considered. The final decision on the appeal must be completed within sixty (60) business days after receipt by the chancellor.
10. The chief research officer shall, as required under existing federal and state law or policy (including the requirements of 42 CFR Part 93, if applicable) and as may be required by the grant or contract terms and conditions of a sponsoring agency, communicate appropriate information and written records and reports to any state or federal agencies who have a right to receive the report.

**E. Advance Notice of Admissions, Settlements or Other Action**

If the Provost or chief research officer plan to close a case at the inquiry, investigation, or appeal stage on the basis that a respondent(s) has admitted guilt and sufficient substantive evidence supports the admission, a settlement with the respondent(s) has been reached, or for any other reason (except the closing of a case at the inquiry stage on the basis that an investigation is not warranted or a finding of no misconduct at the investigation stage) the chief research officer must, as required under existing federal and state law or policy (including the requirements of 42 CFR Part 93, if applicable) and as may be required by the grant or contract terms and conditions of a sponsoring agency, provide advance notice to the applicable agency.

**F. Cooperation with Authorities**

All members of the University of Massachusetts Dartmouth community are expected to give their full and continuing cooperation with Federal authorities during any investigatory reviews or any subsequent hearings or appeals under which the respondent(s) may contest Federal agency findings of research misconduct and proposed administrative actions. This includes providing, as necessary to develop a complete record of relevant evidence, all research records and evidence under the campus' control or custody, or in the possession of, or accessible to, any persons within its authority. All persons shall also assist, as necessary, in administering and enforcing any Federal administrative actions imposed on any institutional members.