Research Integrity

UNIVERSITY POLICY #211

Authority:
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SECTION 1: Introduction

1.1 **General Policy.** Integrity is an obligation of all who engage in the acquisition, application, and dissemination of knowledge. Scholars are bound to maintain honesty and avoid deception in all aspects of their work. This duty, rooted in personal and professional ethics, is shared by all members of the University community.

1.2 **Scope**. This policy and its procedures apply to all individuals, including faculty, students and staff at West Liberty University engaged in research, research-training or application for research funding. This policy applies to any person paid by, under the control of, or affiliated with the University, including but not limited to scientists, trainees, technicians and other staff members, students, fellows, guest researchers, or collaborators at West Liberty University.

1.3 The policy and procedures will normally be followed when an allegation of possible academic misconduct is received by an institutional official.

1.4 These procedures do not apply to undergraduate or graduate students engaged in course work when that course work does not generate or seek to generate published research.

SECTION 2: Definitions

2.1 The following definitions apply only to this policy.

2.2 **Research misconduct** means:

2.2.1 fabrication, falsification, or plagiarism in proposing, conducting, reporting or reviewing research, or

2.2.2 conducting research without following applicable university procedures (i.e. IRB).

2.3 **Research Integrity Officer** means the University employee, appointed by the President of West Liberty University, responsible for assessing allegations of research misconduct, conducting investigations of such allegations and for implementing the procedures set forth in this policy.

2.4 **Affirmative defense** means a claim by a respondent of honest error, a difference of opinion or other explanation for the conduct in question.

2.5 **Allegation** means any written or oral statement or other indication of possible research misconduct made to a University official.

2.6 **Complainant** means a person who makes an allegation of research misconduct.

2.7 **Conflict of interest** means the real or apparent interference of one person's interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships.

2.8 **Deciding Official** means the institutional official, appointed by the President of West Liberty University, who makes final determinations on allegations of research misconduct and any responsive University actions. The Deciding Official will not be the same individual as the Research Integrity Officer. The President may appoint more than one Deciding Official to accommodate the needs of the institution.

2.9 **Destruction of records** means the destruction, absence of, or respondent's failure to provide records adequately documenting the questioned research work. Evidence of research misconduct exists if West Liberty University establishes by a preponderance of the evidence that the respondent intentionally, knowingly, or recklessly had records and destroyed them, had the opportunity to maintain the records but 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 academic community.

2.10 **Executive Secretary** means the University employee appointed by the Research Integrity Officer to maintain the minutes of the Inquiry and Investigation Committee and to participate in the investigation of all allegations of research misconduct.

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

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

2.13 **Good faith allegation** means an allegation made with the honest belief that research misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for, or willful ignorance of, facts that would disprove the allegation.

2.14 **Inquiry** means gathering information and initial fact-finding to determine whether an allegation or apparent instance of research misconduct warrants an investigation.

2.15 **Hearing** means a fact-finding proceeding, held at the request of the Respondent, to determine whether a finding of research misconduct is justified.

2.16 **Hearing Panel** is a group of three members who conduct a hearing and reach a conclusion regarding whether or not there has been a violation of this policy.

2.17 **Inquiry and Investigation Committee** is a committee of up to seven (7) persons appointed by the Research Integrity Officer to review all evidence of inquiries and investigations and to issue reports and findings with respect to the same. At least three (3) members of the committee shall carry out its functions in each case.

2.18 **Investigation** means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred and, if so, to determine the responsible person and the seriousness of the misconduct.

2.19 **Investigator** means a person appointed by the Research Integrity Officer to assist in the investigation of a claim of research misconduct.

2.20 **Mitigating factors** are aspects of the case which do not provide a defense for the respondent under this policy, but which may be considered by the Deciding Official in determining the appropriate University response to the finding of research misconduct.

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

2.22 **Record** means any data, document, computer file, computer storage medium, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the allegation of research misconduct. Records include, but are not limited to: grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; other machine readable data records; manuscripts and publications;

equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; records of telephone calls or e-mail correspondence; and patient files.

2.23 **Research** means a systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general or specific knowledge relating to any academic discipline. It includes creating, establishing, discovering, developing, elucidating, confirming or disseminating information about that academic discipline.

2.24 **Respondent** means the person against whom an allegation of research misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

2.25 **Retaliation** means any action that adversely affects the employment or other institutional status of an individual that is taken by West Liberty University or its employee because the individual has in good faith, made an allegation of research misconduct or of inadequate institutional response thereto or has cooperated in good faith with an investigation of such allegation. Any act of retaliation taken by a person or entity not within the control of West Liberty University is outside the scope of this policy.

SECTION 3: Requirements of Findings

3.1 Finding of research misconduct under this policy requires that:

3.1.1 the conduct constitutes research misconduct;

3.1.2 the conduct is a significant departure from accepted practices of the relevant academic community;

3.1.3 the misconduct was committed intentionally, knowingly, or recklessly; and

3.1.4 the allegation is proven by a preponderance of the evidence.

SECTION 4: Evidence and Burden of Proof

4.1 The following evidentiary standards apply to findings made under this policy.

4.2 **Standard of Proof.** Research misconduct or affirmative defenses must be proved by a preponderance of the evidence.

4.3 **Burdens of Proof.**

4.3.1 West Liberty University has the burden of proof for making a finding of research misconduct. That burden may be discharged either through the presentation of affirmative evidence of misconduct or through the presentation of evidence that the respondent has destroyed records as those acts are defined above.

4.3.2 The respondent has the burden of proving any affirmative defenses raised by the respondent.

4.3.3 The respondent has the burden of proving by a preponderance of the evidence any mitigating factors that are relevant to a decision to impose sanctions following an research misconduct proceeding.

SECTION 5: Rights and Responsibilities of Participants.

5.1 **Research Integrity Officer.** The President of West Liberty University or the President's designee shall appoint the Research Integrity Officer who will have primary responsibility for implementation of the procedures set forth in this policy. The Research Integrity Officer will be a University employee who is well qualified to handle the procedural requirements involved and is sensitive to the varied demands made on those who conduct research, those who are accused of misconduct, and those who report apparent misconduct in good faith. The Research Integrity Officer will appoint the Inquiry and Investigation Committee and will maintain an array of persons appointed by the Faculty Senate to serve as members of Hearing Panels. The Research Integrity Officer will provide training to the Inquiry and Investigation Committee and the array from whom Hearing Panel members are chosen on the content of this policy and relevant laws touching on research misconduct. The Research Integrity Officer investigates allegations of alleged research misconduct and may appoint additional investigators to gather evidence in such cases. The Research Integrity Officer will ensure that necessary and appropriate expertise is secured to carry out a thorough and authoritative evaluation of the relevant evidence in an inquiry or investigation. The Research Integrity Officer will attempt to ensure that appropriate confidentiality is maintained throughout the proceedings as described below. The Research Integrity Officer will present evidence garnered to the Inquiry and Investigation Committee. The Research Integrity Officer is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files. These records shall be treated as exempt for purposes of disclosure under W. Va. Code 29B-1-1 et seq.

5.1.1 The Research Integrity Officer will strive to ensure fairness to the University and all participants in cases of alleged research misconduct.

5.1.2 The Research Integrity Officer may consult, at his or her discretion, any employee or officer of West Liberty University or any entity under its control in order to carry out his or her responsibilities under this policy.

5.1.3 The Research Integrity Officer shall advise all West Liberty University personnel in complying with these procedures and with applicable standards imposed by government or external funding sources. The Research Integrity Officer will report to all external sources of funding as set forth in Section 9 of this policy and as required by federal or state regulations.

5.2 **Complainant.** The complainant, if known, will have an opportunity to give recorded testimony to the Research Integrity Officer, the Executive Secretary or any investigator for consideration by the Inquiry and Investigation Committee. The complainant may also be called upon to provide live testimony to any Hearing Panel convened in the matter. The complainant has the right to review portions of the inquiry report pertinent to his/her allegations or testimony (Sections 7.2.5.3 and 7.2.6.3), to be informed of the results of the process (Section 8.5), and to be protected from retaliation for good faith allegations (Section 6.2). The complainant is entitled to protection afforded by the confidentiality provisions of this policy (Section 6.5).

5.2.1 The complainant is responsible for making allegations in good faith, maintaining confidentiality to the fullest extent permitted by law, and cooperating with an inquiry, investigation or hearing proceeding in a timely manner.

5.3 **Deciding Official.** The Deciding Official will receive the inquiry or investigation reports and any written comments made by the respondent or the complainant. Sections 7.2.5.4; 7.2.7.4; and 8. If the respondent elects to request a Hearing Panel, the Deciding Official will receive the report of findings of that Panel. Section 8.1. The Deciding Official may accept or reject the reports, in whole or in part, and order further action as set forth in Sections 7.2.5.4; 7.2.7.4; and 8. If the final report in the matter finds that the respondent has committed research misconduct, the Deciding Official may, in his or her discretion, consult with the Research Integrity Officer or other appropriate official(s) and will determine whether to impose sanctions, or whether to take other appropriate administrative actions pursuant to Section 8 below.

5.3.1 The Deciding Official may consult, at his or her discretion, with any employee or officer of West Liberty University or any entity under its control in order to carry out his or her responsibilities under this policy.

5.4 **Executive Secretary.** The Executive Secretary will be appointed by the Research Integrity Officer. The Executive Secretary will maintain the minutes of the Inquiry and Investigation Committee, will maintain records of any Hearing Panel proceedings, and will participate in inquiries and investigations with the Research Integrity Officer. He or she will also undertake further activities as requested by the Inquiry and Investigation Committee, Research Integrity Officer or the Deciding Official.

5.5 **Hearing Panel.** A Hearing Panel will be convened at the request of a respondent if the Inquiry and Investigation Committee concludes, after investigation, that the respondent has engaged in research misconduct (Section 7.2.7.3 and 7.2.8). The Hearing Panel will be selected as set forth in Sections 5.1 and 7.2.8.1. The Panel's procedures are set forth in Section 7.

5.6 **Inquiry and Investigation Committee.** The Inquiry and Investigation Committee will be appointed by the Research Integrity Officer. Committees will be appointed for each division of the University as required. The Committee will receive reports and evidence from the Research Integrity Officer, the Executive Secretary or any investigator appointed by the Research Integrity Officer and will decide whether investigations are warranted and whether research misconduct has occurred. The procedures of the Committee are set forth in Section 7.2.

5.7 **Respondent.** The respondent will be informed of the allegations during or before the investigation and will receive copies of the inquiry and investigative reports at times set forth below. *See* Section 7.2.7.2. The respondent will receive written notice of the final determinations and resulting actions. *See* Section 8. The respondent will also have the opportunity to be interviewed by and present recorded evidence to the Research Integrity Officer or Executive Secretary for presentation to the Inquiry and Investigation Committee (Sections 7.2.4 and 7.2.6.3), have a face to face meeting with the Inquiry and Investigation Committee at his or her request (Section 7.2.6.5), to review and comment in writing upon the draft investigation report (Section 7.2.7.2), and to have the advice of counsel at all stages of the proceeding (Section 6.3). If the Inquiry and Investigation Committee determines that the respondent has committed research misconduct, the respondent may elect to have the matter heard by a Hearing Panel for an adjudication (Section 7.2.7.3).

5.7.1 The respondent is responsible for maintaining confidentiality to the fullest extent permitted by law and cooperating with the conduct of an inquiry, investigation or hearing in a timely manner. Failure to cooperate in a timely manner may result in waiver of respondent's rights as set forth above.

5.7.2 If the respondent is not found guilty of research misconduct, the University shall offer, where appropriate, reasonable steps to provide assistance in restoring respondent's reputation.

SECTION 6: General Policies and Principles

6.1 **Responsibility to Report Misconduct.** All employees or individuals associated with West Liberty University should report observed, suspected, or apparent research misconduct to the Research Integrity Officer. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may contact the Research Integrity Officer to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of research misconduct, the Research Integrity Officer may refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

6.1.1 At any time prior to the initiation of an inquiry, an employee may have confidential discussions and consultations about concerns of possible misconduct with the Research Integrity Officer and will be counseled about appropriate procedures for reporting allegations.

6.2 **Protecting the Complainant and others.** The Research Integrity Officer will monitor the treatment of individuals who bring allegations of misconduct or of inadequate institutional response thereto, and those who cooperate in inquiries, investigations or hearings. The Research Integrity Officer will take reasonable steps to ensure that these persons will not be retaliated against by West Liberty University and will review instances of alleged retaliation for appropriate action.

6.2.1 Employees should immediately report any alleged or apparent retaliation to the Research Integrity Officer.

6.2.2 Also West Liberty University will protect the privacy of those who report misconduct in good faith to the maximum extent possible consistent with applicable law. The complainant is entitled to the protection afforded by the confidentiality provisions of this policy. The complainant will be advised that if the matter is referred to a Hearing Panel and the complainant's testimony is required or if applicable law otherwise requires, confidentiality cannot be

guaranteed. West Liberty University will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

6.3 **Protecting the Respondent.** Inquiries, investigations and hearings will be conducted in a manner that will ensure fair treatment to the respondent. Confidentiality will be maintained to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry, investigation or hearing. Respondents accused of Research misconduct may consult with legal counsel or a non-lawyer personal adviser (who is not a principal or witness in the case) to seek advice and may bring the counsel or adviser to interviews, meetings or hearings on the case. The counsel or advisor may present evidence on behalf of the respondent before any Hearing Panel in the matter and may ask questions of any other witness called during proceedings before such a Panel.

6.4 **Cooperation with Inquiries and Investigations**. All West Liberty University employees and the employees of entities under the control of the University will cooperate with the Research Integrity Officer, the Executive Secretary or other investigator, the Inquiry and Investigation Committee, any Hearing Panel and other institutional officials in the review of allegations and the conduct of inquiries, investigations and hearings. Such employees have an obligation to provide relevant evidence to the Research Integrity Officer, the Executive Secretary or other investigator, the Inquiry and Investigation Committee, any Hearing Panel or other institutional officials on misconduct allegations.

6.5 **Confidentiality.**

6.5.1 All participants in the procedures set out in this policy, including the complainant and respondent and all witnesses, shall maintain the confidentiality of those procedures to the fullest extent permitted by law and by this policy.

6.5.2 Disclosure of the identity of respondents and complainants in research misconduct proceedings is limited, to the extent possible, to those who need to know, consistent with a thorough, competent, objective and fair research misconduct proceeding, and as allowed by law. Provided, however, that West Liberty University must disclose the identity of respondents and complainants to governmental funding sources pursuant to their regulations and may be required to disclose that information to other funding entities.

6.5.3 Except as may otherwise be prescribed by applicable law, confidentiality must be maintained for any records or evidence from which research subjects might be

identified. Disclosure is limited to those who have a need to know to carry out a research misconduct proceeding.

6.6 **Admission of Research Misconduct.** At any point in the Inquiry or Investigation, a Respondent may elect to admit the research misconduct charged. Such an admission must be in writing and signed by the respondent. The admission must address all the requirements of findings set forth in section III above. The admission may also include any factors in mitigation which the respondent wishes to advance. The admission will be presented for review by the Inquiry and Investigation Committee. If that Committee finds that the admission meets the tests of this section and finds that there is no other reason to reject the admission, it will prepare a report as required by Section 7.2.7 below and forward the matter to the Deciding Official for decision under Section 7.2.7.4 and 8 below.

SECTION 7: Procedures

7.1 **Preliminary Assessment of Allegations.** Upon receiving an allegation of research misconduct, the Research Integrity Officer will immediately assess the allegation to determine whether there is sufficient evidence to warrant an inquiry, whether outside funding or application for outside funding is involved, and whether the allegation, if true, falls within the definition of research misconduct. If the Research Integrity Officer concludes that there is sufficient evidence and that the allegation falls within the definition of research misconduct, he or she shall commence the inquiry process.

7.2 **Conducting the Inquiry**

7.2.1 **Initiation and Purpose of the Inquiry.** In initiating the inquiry, the Research Integrity Officer should identify clearly the original allegation and any related issues that should be evaluated. The purpose of the inquiry is to make a preliminary evaluation of the available evidence and, if appropriate, testimony of the respondent, complainant, and other relevant witnesses to determine whether there is sufficient evidence of possible research misconduct to warrant an investigation. The purpose of the inquiry is not to reach a final conclusion about whether misconduct definitely occurred or who was responsible. The findings of the inquiry must be set forth in an inquiry report.

7.2.2 **Sequestration of Records.** The Research Integrity Officer must take all reasonable steps to ensure that all original records and materials relevant to the allegation are immediately secured. The Research Integrity Officer may consult with relevant governmental funding agencies for advice and assistance in this

regard. The Research Integrity Officer will make appropriate provision for access by the Respondent to these records consistent with maintaining their authenticity and with applicable law.

7.2.3 **Convene Inquiry and Investigation Committee.** The Research Integrity Officer will advise the Inquiry and Investigation Committee of the pendency of a complaint together with the names of the complainant, respondent and any relevant witnesses. If any member of the Inquiry and Investigation Committee believes that he or she has a conflict of interest or if the Research Integrity Officer believes that there is the appearance of such a conflict, the relevant member of the committee will recuse him or her self and the Research Integrity Officer may appoint an ad hoc member of the committee to serve in the matter.

7.2.4 **Inquiry Process.** During the inquiry the Research Integrity Officer, the Executive Secretary or an investigator will normally interview the complainant and relevant witnesses as well as examining relevant records and materials. The respondent may be interviewed at this stage if conducting such an interview is conducive to the proper resolution of the case. Records of these interviews and all relevant evidence will be presented to the Inquiry and Investigation Committee, which will evaluate the evidence and testimony obtained during the inquiry. After consultation with the Research Integrity Officer and a member of the staff of the General Counsel who shall review for legal sufficiency, the committee members will decide whether there is sufficient evidence of possible research misconduct to recommend further investigation.

7.2.4.1 In making this determination, the committee shall decide: a. whether there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct and b. whether preliminary information-gathering and preliminary fact-finding from the inquiry indicates that the allegation may have substance.

7.2.4.2 The committee decision will be by majority vote. Any minority member of the committee is entitled to enter a separate report.

7.2.5 **The Inquiry Report**

7.2.5.1 **Elements of the Inquiry Report.** The Inquiry report will be in writing and will include the following information:

a. the name and position of the respondent;

b. a description of the allegations of research misconduct;

c. a description of outside support involved, if any;

d. the basis for recommending that the alleged misconduct warrants or does not warrant an investigation;

e. a statement of the allegation to be investigated and f. any comments on the report by the complainant.

7.2.5.2 General Counsel will review the report for legal sufficiency.

7.2.5.3 **Comments on the Draft Report by the Complainant.** The Research Integrity Officer will provide the complainant with a copy of the draft inquiry report for comment. Within 14 calendar days of the receipt of the draft report, the complainant will provide his or her comments, if any, to the Inquiry and Investigation Committee. Any comments will become part of the inquiry report. Based on the comments, the Inquiry and Investigation Committee may revise the report as appropriate.

7.2.5.4 **Inquiry Decision and Notification**. If the Inquiry and Investigation Committee concludes that no investigation is appropriate, the Research Integrity Officer will transmit the report and any comments to the Deciding Official, who will make the determination of whether to accept that conclusion. If the Deciding Official determines that no investigation is required the case is closed. If the Deciding Official determines that investigation is required he or she will return the matter to the Research Integrity Officer for investigation pursuant to Section 7.2.6 below. Records of any decision will be maintained pursuant to Section 11 below.

7.2.5.5 **Time Frame for Completing the Inquiry Report**. The Inquiry and Investigation Committee will normally complete the inquiry and submit its report in writing no more than forty-five (45) business days following its first meeting on the case, unless the Research Integrity Officer approves an extension for good cause. If the Research Integrity Officer approves an extension, the reason for the extension will be entered into the records of the case and the report.

7.2.5.6 **Notification of Governmental Fund Sources**. If the decision is made that the case should proceed to investigation, the Research Integrity Officer shall notify any governmental agency covered by Section 9 below and

shall take any steps required by the regulations of that agency. A copy of this policy shall accompany the report. The Research Integrity Officer may also notify, if appropriate, other outside research sponsors.

7.2.5.7 **Notice to Respondent.** If the respondent has not been previously notified of the complaint or interviewed with respect thereto, the Research Integrity Officer will notify him or her in writing of the pending case at the close of the Inquiry stage. In any event, the Research Integrity Officer will advise the respondent in writing at this point as to whether an investigation will be conducted. The Research Integrity Officer will provide the respondent with a copy of this policy and will point out his or her obligation to adhere to the process.

7.2.6 **Conducting the Investigation**.

7.2.6.1 **Purpose of the Investigation**. The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether research misconduct has been committed and, if so, by whom. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations and any additional issues identified by the Research Integrity Officer. The findings of the investigation will be set forth in an investigation report.

7.2.6.2 **Sequestration of the Records**. The Research Integrity Officer will take all reasonable steps to immediately sequester any additional pertinent records that were not previously sequestered during the inquiry. This sequestration should occur before or at the time the respondent is notified that an investigation has begun. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry. The Respondent may have supervised access to the sequestered material for purposes of preparing his case.

7.2.6.3 **Investigation Process.** The investigation shall begin within fifteen (15) days of the decision to proceed unless an extension is granted by the Research Integrity Officer for good cause. Any such extension will be documented in the file. The Research Integrity Officer, the Executive Secretary and any investigator will collect any additional evidence and interview any additional witnesses. The investigation will normally involve examination of all records relevant to the case. If the following

persons were not interviewed during the inquiry process or if the Research Integrity Officer believes that further interviews are desirable the Research Integrity Officer, Executive Secretary or investigator will interview the complainant, the respondent, and other individuals who might have information regarding aspects of the allegations including any witnesses identified by the Respondent. All interviews will be recorded. Copies of the recording will be prepared, provided to the interviewed party for comment and included as part of the investigatory file.

7.2.6.4 **Review and Finding by the Inquiry and Investigation Committee**. The Research Integrity Officer will present the record of the investigation, copies of all interviews, copies of any written statements prepared by any witness, and all relevant evidence to the Inquiry and Investigation Committee.

7.2.6.5 The Inquiry and Investigation Committee may direct the Research Integrity Officer to undertake further investigation or may itself elect to hear from one or more witnesses. If the respondent requests an interview by the Inquiry and Investigation Committee, the committee will provide for such an interview provided that it can be scheduled in such a way as to meet the deadlines set for the activity of the Committee. This interview is not a hearing.

7.2.6.6 Based upon the evidence presented to it, the Inquiry and Investigation Committee will make a finding as to whether research misconduct occurred. Findings will be made by a majority vote of the committee and will be set forth in a written report. Any minority member may provide a minority report.

7.2.7 **The Investigation Report.**

7.2.7.1 **Elements of the Investigation Report**. The investigation report will be in writing and include the following sections:

a. **Allegations.** This will include a description of the nature of the original allegations of research misconduct;

b. **Outside Support.** This section describes and documents any outside support for the research, including, for example, any grant numbers, grant applications, contracts, and publications listing such support.

c. **Institutional Charge.** This includes a description of the specific allegations of research misconduct, which were the actual subject of the investigation.

d. **Records and Evidence.** This section identifies and summarizes the records and evidence reviewed, and identify any evidence taken into custody but not reviewed.

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

(1) Identify whether the research misconduct was falsification, fabrication, or plagiarism;

(2) Determine if the misconduct was intentional, knowing, or in reckless disregard;

(3) Summarize the facts and the analysis which support the conclusion and consider the merits of any affirmative defenses or factors in mitigation by the respondent;

(4) Identify whether any publications need correction or retraction;

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

(6) List any current support or known applications or proposals for support that the respondent has pending with any outside agencies.

7.2.7.2 **Comments on the Report.**

a. **Respondent**. The Research Integrity Officer will provide the respondent with a draft copy of the investigation report for comment and rebuttal. At the same time, the Research Integrity Officer will provide the respondent with the inquiry report. The respondent will be allowed fourteen (14) days to review and comment on both reports. The respondent's comments will be attached to the investigation report. The final version of the

investigative report will take into account the respondent's comments in addition to all the other evidence.

b. **General Counsel.** The investigation report will be transmitted to the General Counsel for a review of its legal sufficiency.

7.2.7.3 **Hearing Election**. If the Inquiry and Investigation Committee concludes that the respondent engaged in research misconduct, the Research Integrity Officer shall advise the respondent that he or she may elect to take the matter to a Hearing Panel prior to submission of the findings to the Deciding Official.

7.2.7.4 **Deciding Official Review and Decision**. If the Inquiry and Investigation Committee concludes that no research misconduct occurred, the report of that decision will be delivered to the Deciding Official. The Deciding Official may accept the findings of the investigation, in whole or in part, may reject the findings, or may remit the report to the Inquiry and Investigation Committee for further review. In the event that the case is remitted to the Inquiry and Investigation Committee, the Deciding Official will note any deficiencies found in the investigative report. If the Deciding Official accepts the findings, he or she will direct the Research Integrity Officer to take steps to notify any interested persons or organizations of the conclusion, take any steps appropriate to restore the reputation of the respondent and close the file. If the Inquiry and Investigation Committee concludes that research misconduct did occur and the respondent has not elected to seek a Hearing Panel, the Deciding Official will make the final determination whether to accept the investigation report and its findings. If the Deciding Official accepts the report, the Deciding Official will determine appropriate institutional actions as described in section VIII below. If the Inquiry and Investigation Committee concludes that research misconduct did occur, the respondent has not elected to seek a Hearing Panel, and if the Deciding Official rejects that finding, the Deciding Official will explain in detail the basis for rendering a decision different from that of the committee. The Deciding Official's explanation should be consistent with these policies and the evidence reviewed and analyzed by the Inquiry and Investigation Committee. This decision will be reported to appropriate governmental authorities as set forth in Section 9 below.

7.2.7.5 **Time Limit for Completing the Investigation Report**. An investigation should ordinarily be completed within one hundred and twenty (120) days of its initiation. This includes conducting the investigation, preparing the report of findings, making the draft report available to the respondent for comment, and approval of the report by the Deciding Official if no hearing is required or sought.

7.2.8 **Hearing**. If the Inquiry and Investigation Committee concludes that research misconduct occurred and the respondent elects a Hearing Panel, the following procedures govern.

7.2.8.1 **Selection of Panel.** The Research Integrity Officer shall maintain an array of University employees chosen by the Faculty Senate to serve in research integrity hearings. Hearing Panels will have three members. The respondent will choose one member of the Hearing Panel from the array. The Research Integrity Officer will then choose one member of the array. The final member of the Hearing Panel will be selected from the array by the two members previously selected. Panel members will be selected within fourteen (14) days of the Respondent's request for a hearing. If any member of the Hearing Panel believes that he or she has a conflict of interest, the relevant member of the Panel will recuse him or her self and the party appointing them will be required to designate another member of the array. All members of the panel must agree on a date within thirty (30) days of their appointment for their first hearing. If a member is unable to meet within this time, the appointing party must name another member from the array.

7.2.8.2 **Charge to the Panel**. The Research Integrity Officer will prepare a charge to the Panel setting forth the precise nature of the research misconduct alleged. A copy of that charge will be provided to the respondent when the Officer chooses his or her member of the panel. The respondent will prepare a statement asserting any defense and specifying any affirmative defenses or factors in mitigation which he or she may have. A copy of the respondent's statement will be delivered to the Research Integrity Officer five (5) days prior to the hearing. Both the charge and the respondent's statement will be delivered to the Panel by the Research Integrity Officer at the beginning of the first hearing in the matter.

7.2.8.3 **Representation of Parties**. The General Counsel's office of the University will represent the University. The Respondent may retain counsel or seek the assistance of a non-lawyer representative. *See* Section 6.3.

7.2.8.4 **Functions of the Panel**. The Panel hears the evidence presented by both parties on the allegation of research misconduct and on any defenses or mitigation. It receives evidence from witnesses, documents and other appropriate sources. It does not conduct any independent investigation. It is bound by these policies and must make its determinations based on the standards set forth herein. It is not bound by the formal rules of evidence and procedure, but must afford all parties fairness in the presentation of evidence and argument. The Panel makes findings of fact concerning whether or not research misconduct occurred and if so, who committed that misconduct. It also makes findings as to whether any affirmative defenses or factors in mitigation have been proven. It does not make any judgment concerning the appropriate sanction, if any, for any misconduct. Nor does it substitute its judgment for the judgments embodied in this policy. The proceedings before the Panel shall be recorded.

7.2.8.5 **Default**. If the respondent does not cooperate in constituting the Panel or does not appear for the hearing despite notice thereof, the Panel will not be constituted or will be disbanded and the findings of the Inquiry and Investigation Committee will be sent to the Deciding Official as if the request for hearing had never been made.

7.2.8.6 **Findings.** The Hearing Panel, after receiving all the evidence offered by the parties, shall make written findings. The findings will include:

a. **Allegations**. Set forth the charge of research misconduct;

b. **Outside support.** Describe and document any outside support, including, for example, any grant numbers, grant applications, contracts, and publications listing such support.

c. **Records and evidence.** Identify and summarize the records and evidence reviewed, and identify any evidence taken into custody but not reviewed.

d. **Statement of findings.** For each separate allegation of research misconduct identified in the charge, provide a finding as to whether research misconduct did or did not occur, and:

(1) Identify whether, if there was research misconduct, the research misconduct was falsification, fabrication, or plagiarism

(2) Identify whether, if there was research misconduct, it was intentional, knowing, or in reckless disregard;

(3) Identify the person(s) responsible for the misconduct, if any;

(4) State whether any affirmative defense or matter in mitigation has been proved by the respondent;

(5) Summarize the facts and the analysis which support the conclusion;

(6) Identify whether any publications need correction or retraction or whether other corrective action needs to be taken; and

(7) List any current support or known applications or proposals for support that the respondent has pending with any outside agencies.

e. Findings shall be made by a majority of the Panel with minority findings noted as appropriate. The findings shall be signed by all members of the panel. Findings shall be directed to the Deciding Official. The Research Integrity Officer may provide a form to the panel on which to record its findings. A copy of that form will be provided to the respondent.

7.2.8.7 **Time Limits**. The panel shall complete its process within one hundred (100) days of the appointment of the first panel member by the Respondent unless there is good cause for a delay. If there is good cause the Hearing Panel shall explain that cause in its report.

SECTION 8: Deciding Official Review and Decision

8.1 The Deciding Official will make the final determination whether to accept the inquiry, investigation report or Panel decision. If this determination varies from that of the Committee or Panel, the Deciding Official will explain in writing the basis for rendering a different decision. The Deciding Official's explanation should be consistent with 14 this policy. The Deciding Official may also return the report to the committee or panel with a request for further fact-finding or analysis.

8.2 If it is found that research misconduct has occurred, the Deciding Official will determine what action will be taken by the University. The actions may include but are not limited to:

8.2.1 withdrawal or correction of all pending or published abstracts and papers emanating from the work where research misconduct was found;

8.2.2 removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;

8.2.3 restitution of funds as appropriate.

8.3 In addition, the Deciding Official will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case.

8.4 The Deciding Official's determination, together with all previous reports constitutes the final record. If governmental fund sources are involved in the case, a copy of the record will be forwarded to those agencies as provided in Section 9 below. If the research is supported by non-governmental entities, a copy of the report will be sent to them as well. A copy will also be provided to the respondent.

8.5 When a final decision on the case has been reached, the Research Integrity Officer will notify both the respondent and the complainant in writing of the decision. The Research Integrity Officer is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

SECTION 9: Requirements for Reporting to Government Agencies

9.1 Certain governmental agencies, by law or regulation, require that institutions such as West Liberty University applying for or receiving their funds report inquiries and

investigations of research misconduct to them. The provisions of this section apply only to those agencies.

9.2 **Decision to investigate.** West Liberty University's decision to initiate an investigation must be reported in writing to appropriate official within a governmental agency which has funded the work in question. The relevant regulations of the agency are to be followed in making these reports. This notice will be sent within thirty (30) days of the decision to investigate.

9.3 **Termination of investigation**. If West Liberty University plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of the relevant governmental regulations, the Research Integrity Officer will submit a report of the planned termination to agency, including a description of the reasons for the proposed termination.

9.4 **Inability to complete timely investigation**. If West Liberty University determines that it will not be able to complete the investigation in one hundred and twenty (120) days, the Research Integrity Officer will submit to the relevant government agency a request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken. If the request is granted, the Research Integrity Officer will file periodic progress reports as requested by the relevant agency.

9.5 **Immediate notice.** The Research Integrity Officer will notify the relevant governmental agency at any stage of the inquiry or investigation if:

9.5.1 there is an immediate health hazard involved;

9.5.2 there is an immediate need to protect Federal funds or equipment;

9.5.3 there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his/her co-investigators and associates, if any;

9.5.4 it is probable that the alleged incident is going to be reported publicly;

9.5.5 the allegation involves a public health sensitive issue, e.g., a clinical trial; or

9.5.6 there is a reasonable indication of possible criminal violation. In this instance, West Liberty University must inform relevant governmental agency within 24 hours of obtaining that information.

9.6 **Report of Investigation**. In all cases in which an investigation took place, the Research Integrity Officer will make a written report of the outcome to the relevant governmental agency. That report will include:

9.6.1 Investigation Report. Including a copy of the report, all attachments, and any appeals.

9.6.2 Hearing Panel findings. Including a copy of the findings of the Panel if one occurred.

9.6.3 Final University action. Stating whether the institution found research misconduct and, if so, who committed the misconduct.

9.6.4 Findings. Stating whether the University accepts the investigation's or hearing's findings.

9.6.5 University administrative actions. Describe any pending or completed administrative actions against the respondent.

9.7 **Admission of misconduct**. When governmental funding or applications for funding are involved and an admission of research misconduct is made, the Research Integrity Officer will contact the relevant agency for consultation and advice. When the case involves governmental funds, the University cannot accept an admission of research misconduct as a basis for closing a case or not undertaking an investigation without prior approval from the relevant agency.

SECTION 10: Other Considerations

10.1 **Termination of Employment or Resignation Prior to Completing Inquiry or Investigation**. The termination of the respondent's employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the misconduct procedures. If the respondent, without admitting to the misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after an allegation has been reported, or during an inquiry or investigation, the inquiry or investigation will proceed. If the respondent refuses to participate in the process after resignation, the Inquiry and 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 Inquiry and Investigation Committee's review of all the evidence.

10.2 **Allegations Not Made in Good Faith**. If relevant, the Deciding Official will determine whether the complainant's allegation of research misconduct was made in good faith. If an allegation was not made in good faith, the Deciding Official will determine whether any administrative action should be taken against the complainant.

10.3 **Interim Administrative Actions**. Officials of West Liberty University will take interim administrative actions, as appropriate, to protect governmental funds and ensure that the purposes of the Federal financial assistance are carried out.

SECTION 11: Record Retention

11.1 After completion of a case and all ensuing related actions, the Research Integrity Officer will prepare a complete file. This file will include:

11.1.1 copies of all evidence and other materials furnished to or sequestered by the Research Integrity Officer, Inquiry and Investigation Committee or Hearing panel.

a. The Research Integrity Officer may exclude those records that are not relevant to the proceeding or those records that duplicate other records that are being retained.

b. The Research Integrity Officer will retain documentation of the determination of irrelevant or duplicate records.

11.1.2 The inquiry report and final documents (not drafts) produced in the course of preparing that report, including the documentation of any decision not to investigate if such a decision was made.

11.1.3 The investigation report and all records (other than drafts of the report) in support of that report, including the recordings or transcriptions of each interview conducted.

11.1.4 The complete record of any Hearing panel proceeding.

11.1.5 A complete record of the actions of the Deciding Official.

11.2 **Retention time**. Unless custody of the items above has been transferred to the relevant governmental agency or that agency has advised the University in writing that it no longer needs to retain the records or unless the University is required by law or contractual obligation to keep records for a longer period of time, the University must maintain records of research misconduct proceedings in a secure manner for 7 years

after completion of the proceeding or the completion of any agency proceeding involving the research misconduct allegation, whichever is later.

11.3 **Annual reports**. The Research Integrity Officer shall provide an annual report on the status of pending matters under this policy. Unredacted copies of these reports shall go to all Deciding Officials.