

Faculty Senate Policy Committee

Meeting Minutes

November 18, 2015

3:30 p.m. to 5:00 p.m.

Members Present: Kimberly Gauderman (Co-Chair), Marsha Baum, Lee Brown, Barbara Hannan, Jamal Martin, Leslie Oakes, and Melinda Tinkle

Ex-Officio: John Trotter, HSC Vice Chancellor Emeritus, Vivian Valencia, University Secretary, Office of the Secretary, and Kimberly Bell, Deputy University Counsel, University Counsel Office

Members Absent: Martha Muller (Chair), Leslie Morrison, HSC Vice Chancellor, and Carol Parker, Senior Associate Provost, Office of the Provost & EVP for Academic Affairs

Staff Present: Rick Holmes, Administrative Officer, Office of the Secretary
Carol Stephens, Professional Consultant, Office of the Secretary

1. The regular meeting of the Faculty Senate (FS) Policy Committee was called to order at 3:31PM on Wednesday November 18, 2015 in Scholes Hall 141 by Vice Chair, Kimberly Gauderman.
2. **Approval of the agenda.** The agenda was unanimously approved as written.
3. Chair Gauderman announced that the Committee on Governance has requested a representative on the Branch Campus Task Force. Policy Committee member Melinda Tinkle added that she felt it would be a liaison type of role, not as tenuous as one of the members, more of taking information back and forth. The Task Force itself may have a heavy workload. The intent is to look at Section F of the Faculty Handbook in relation to Main Campus.

Chair Gauderman called for a volunteer to work with the CoG Task Force and Carol Parker on the Branch Campus policies to make sure they are in order with our main campus faculty policies. Committee member Leslie Oakes volunteered. Chair Gauderman will notify Jackie Hood and Carol Parker that Leslie is the representative from the Policy Committee.
4. **Introductions.** Members that were present introduced themselves.
5. **Approval of the October 14, 2015 and November 4, 2015 Policy Committee Minutes.** The minutes were unanimously approved as written with two abstentions.
6. **E40 "Research Misconduct"**
Committee member Melinda Tinkle moved that the revised draft of E40 be sent to the Research Policy Committee. Committee member Lee Brown seconded the motion. The Policy Committee unanimously approved, as amended, pending the changes by Carol Stephens. There were no abstentions. The next step is to send the following Policy Draft with Carol's changes to the RPC.

E40: Research Misconduct

Approved By: Faculty Senate, Board of Regents

Last Updated: **Draft 9/29/15**

Responsible Faculty Committee: Research Policy Committee

Office Responsible for Administration: Vice President for Research and HSC Vice Chancellor for Research

Revisions to the Policy Rationale, Policy Statement, and Applicability sections of this document must be approved by the full Faculty Senate.

POLICY RATIONALE

Integrity, trust, and respect are important elements in an academic research environment. Investigators typically conduct research and explain findings and theories with painstaking diligence, precision, and responsibility. However, research misconduct threatens both to erode the public trust and to cast doubt on the credibility of all researchers. This policy and these procedures regarding research misconduct are intended to protect the integrity of the University of New Mexico's (UNM) research enterprise and not hinder the search for truth or interfere with the expansion of knowledge.

POLICY STATEMENT

Because UNM as well as the general public and government are affected by research misconduct, UNM faculty and administration have created a process to deal with research misconduct if it arises and to ensure the credibility and objectivity of research activities. In broad terms this process is designed to:

- Ensure that ethical standards for research at UNM are clearly stated and applied.
- Inquire into allegations of misconduct promptly and, where appropriate, initiate formal investigations and advise sponsors of action taken.
- Ensure that each investigation is properly documented to support findings and carefully conducted to protect any person whose reputation may be placed at risk during the process.
- Respect the principles of academic freedom.

This policy is intended to carry out UNM's responsibilities under the PHS regulations on Research Misconduct, 42 CFR Part 93. UNM extends this policy to PHS and non-PHS supported research.

Scope. This policy applies to allegations of research misconduct (as defined below), or in reporting research results involving:

- any individual who, at the time of the alleged research misconduct, was employed by, was an agent of, or was affiliated by contract or agreement with UNM; including, but not limited to, faculty, graduate/undergraduate students, staff, employees, contractors, visiting scholars, and any other member of UNM's academic community and
- one or more of the following:
(1) Public Health Service (PHS) supported or non-PHS supported biomedical or behavioral research, research training or activities related to that research or research training, such as the operation of tissue and data banks and the dissemination of research information, (2) applications or proposals for PHS support or non-PHS supported biomedical or behavioral research, research training or activities related to that research or research training, or (3) plagiarism or research records produced in the course of research, research training or activities related or that research or research training. This includes any research proposed, performed, reviewed, or reported, or any research record generated from that research, regardless of whether an application or proposal resulted in a grant, contract, cooperative agreement, or any other form of support.

These policies and procedures do not apply to authorship or collaboration disputes and apply only to allegations of research misconduct that occurred within six years of the date the institution or HHS received the allegation, subject to the subsequent use, health or safety of the public, and grandfather exceptions in 42 CFR 93.105(b).

General Principles

1. Research misconduct cannot be tolerated and will be firmly dealt with when found to exist.
2. For purposes of resolving allegations of research misconduct, the process established by this policy shall apply to allegations of fabrication, falsification or plagiarism. All other allegations of research misconduct shall be resolved utilizing other applicable University policies and procedures.
3. All applicable persons (as described in Applicability section below) will report observed, suspected, or apparent research misconduct in accordance with Section 4.1 of this policy. Allegations may be made in writing, orally or anonymously and in all cases, must be sufficiently credible and specific. If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the Vice President for Research, Vice Chancellor for Research, or the appropriate Research Integrity Office (RIO) to discuss the suspected research misconduct informally, which may include discussing it anonymously and/or hypothetically. A copy of this policy shall be made available to the complainant.

Charges of research misconduct shall be promptly reviewed and a copy of this policy shall be made available to the complainant. Allegations must be made in writing, and signed and dated by the complainant. If health or safety is involved, prompt remedial action shall be taken.

4. Every effort shall be made to protect the rights and the reputations of everyone involved, including the individual who in good faith alleges perceived misconduct as well as the alleged violator(s). A good faith allegation is made with the honest belief that research misconduct may have occurred. Persons making a good faith allegation shall be protected against retaliation. However, persons making allegations in bad faith will be subject to disciplinary action, up to and including termination or expulsion. An allegation is made in bad faith if the complainant knows that it is false or makes the allegation with reckless disregard for or willful ignorance of facts that would disprove it.
5. All members of the University community are expected to cooperate with committees conducting inquiries or investigations.
6. Confidentiality. Care will be exercised at all times to ensure confidentiality to the maximum extent possible and to protect the privacy of persons involved in the research under inquiry or investigation. The privacy of those who report misconduct in good faith will also be protected to the maximum extent possible. Files involved in an inquiry or investigation shall be kept secure and applicable state and federal law shall be followed regarding confidentiality of personnel records.
7. Conflict of Interest. If the Provost, the Vice Chancellor for Health Sciences, Vice ~~President Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate, has any actual or potential conflict of interest, the persons shall recuse themselves from the case. The President of the University shall appoint designates to act instead. When a case continues to the Inquiry and Investigation stages (Sections 5.3 and 6.3), if the President of the Faculty Senate has any actual or potential conflict of interest, the person shall recuse him/herself from the case and the Senate President-Elect shall appoint a designate to act instead. If any member of the Faculty Senate Operations Committee or the Chair of the Research Policy Committee has any actual or potential conflict of interest, the persons shall recuse themselves from the case. The Faculty Senate President, or designate as appropriate, shall appoint faculty members to act instead.
8. UNM will respond to each research misconduct allegation in a thorough, competent, objective, and fair manner.
9. UNM will ensure its deans, directors, chairs, and graduate advisors are reminded annually of the UNM's policies and procedures on Research Misconduct. UNM will also inform all faculty, students, and staff of the need and importance of research integrity and the importance of compliance with applicable policies and procedures.

APPLICABILITY

All academic and research UNM units, including the Health Sciences Center and Branch Campuses.

Revisions to the remaining sections of this document may be amended with the approval of the Faculty Senate Research Policy Committee, Policy Committee, and Operations Committee.

DEFINITIONS

Complainant means a person who makes an allegation of research misconduct. There can be more than one complainant in any inquiry or investigation.

Deciding Official will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions. The Provost is the deciding official for cases where the respondent is not a HSC employee. The Chancellor for Health Sciences is the deciding official for cases where the respondent is a HSC employee.

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

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

NSF means the National Science Foundation. The NSF has adopted rules establishing standards for institutional responses to allegations of research misconduct.

ORI means the Office of Research Integrity, an office within the U.S. Department of Health and Human Services that is responsible for overseeing the implementation of PHS policies and procedures on research misconduct.

PHS means the Public Health Service, a component of the U.S. Department of Health and Human Services. The PHS has adopted rules establishing standards for institutional responses to allegations of research misconduct.

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

Recklessly means that a person acts in such a manner that the individual consciously disregards a substantial and unjustifiable risk or grossly deviates from the standard of conduct that a reasonable individual would observe.

Research misconduct is defined as fabrication, falsification or plagiarism in proposing, conducting, reporting or reviewing sponsored or unsponsored research. The misconduct must have been committed intentionally, knowingly or recklessly. Research misconduct is further defined to include gross carelessness in conducting research amounting to wanton disregard of truth or objectivity, or failure to comply or at least attempt to comply with material and relevant aspects of valid statutory or regulatory requirements governing the research in question. Research misconduct is more than a simple instance of an error in judgment, a misinterpretation of experimental results, an oversight in attribution, a disagreement with recognized authorities, a failure in either inductive or deductive reasoning, an error in planning or carrying out experiments, or a calculation mistake.

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

WHO SHOULD READ THIS POLICY

- Faculty, staff, students, [contractors, visiting scholars, and any other member of UNM’s academic community involved in the conduct or research or the reporting of research results.](#)
- Members of the Faculty Senate and the Research Policy Committee
- Academic deans or other executives, department chairs, directors, and managers
- Administrative staff responsible for sponsored research management.
- [Any person who brings forth any allegation of research misconduct.](#)
- [Any person against whom an allegation of research misconduct is directed or the person who is the subject of a research misconduct inquiry or investigation.](#)

RELATED DOCUMENTS

UNM Regents’ Policy Manual

[Policy 5.10](#) “Conflicts of Interest in Research”

[Policy 5.13](#) “Research Fraud”

[Policy 5.14](#) “Human Beings as Subjects in Research”

[Policy 5.15](#) “Use of Animals in Education and Research”

Faculty Handbook

[E90](#) “Human Beings as Subjects in Research”

[E100](#) “Policy Concerning Use of Animals”

[E110](#) “Conflicts of Interest in Research”

CONTACTS

Direct any questions about this policy to Office of the Vice President for Research or the HSC Office of Research.

PROCEDURES

1. Preliminary Assessment of Allegations

1.1 An initial report of alleged research misconduct shall be treated and brought in a confidential manner to the attention of the faculty member or other person (e.g., chairperson, supervisor, director, principal investigator) responsible for the researcher(s) whose actions are in question, or to the dean of the researcher’s college, or to the Vice ~~President~~ ~~Provost~~ for Research (for allegations concerning a main campus researcher) or Vice ~~Chancellor for Research~~ ~~President for Health Sciences~~ (for allegations concerning a HSC researcher). The person receiving the initial report shall, in turn, make an immediate confidential report of the allegations to the Vice ~~President~~ ~~Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~President for Health Sciences~~, as appropriate.

1.2 An initial report of research misconduct might arise as part of an administrative review. Such a report will be acted upon in accordance with this policy. The report should be brought confidentially to the Vice ~~President Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate.

1.3 Upon receiving an allegation of research misconduct, the Vice President for Research or the Vice Chancellor for Research, or designee, shall conduct a preliminary assessment within seven (7) working days. The purpose of the preliminary assessment is to determine whether the allegation (1) is sufficiently credible and specific so that potential evidence of research misconduct may be identified, (2) whether the allegation falls within the definition of research misconduct and (3) whether it is within the jurisdictional criteria of this policy. An inquiry must be conducted if these criteria are met.

In conducting the preliminary assessment, the complainant, respondent, or other witnesses need not be interviewed and data need not be gathered beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific so that potential evidence of research misconduct may be identified.

~~Upon receipt of an initial report of alleged research misconduct, the Vice Provost for Research or Vice President for Health Sciences, or designee, shall conduct a preliminary assessment within seven (7) working days. The purpose of the preliminary assessment is to determine whether the allegation falls within the definition of research misconduct and whether there is sufficient evidence to warrant an inquiry. If both conditions are met the inquiry process shall be initiated. If the allegation is vague, an effort should be made to obtain more information before deciding whether there is sufficient evidence to warrant an inquiry. If the preliminary assessment finds insufficient information to allow specific follow-up or the allegation falls outside the definition of research misconduct, the matter will not proceed to an inquiry, and the Vice Provost for Research or Vice President for Health Sciences shall so inform the respondent and complainant in writing. The allegation may be referred for review under another University policy, as appropriate.~~

2. Inquiry

2.1 Purpose and Initiation

If the preliminary assessment reveals that the allegation falls within the definition of research misconduct and there is sufficient information to allow specific follow-up, the inquiry process shall be initiated by the Vice ~~President Provost~~ for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate. The initiating official will clearly identify the original allegation and any related issues that should be evaluated in the inquiry. The purpose of the inquiry is to make a preliminary evaluation of the available evidence to determine whether there is sufficient credible evidence of possible research misconduct to warrant conducting an investigation. The purpose of the inquiry is not to reach a final conclusion about whether misconduct occurred. The findings of the inquiry shall be set forth in an inquiry report.

2.2 Securing Research Records

Prompt securing of the research records is in the best interest of both the respondent and UNM. After determining that an inquiry will occur, the Vice President for Research or the Vice Chancellor for Research will direct a process 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. Sequestration of research records must occur on or before the date on which the respondent is notified of the allegation.—Immediately upon ensuring that the research records are secure, the respondent shall be notified that an inquiry is being initiated and an inventory of the secured records shall be provided him/her. As soon as practicable, a copy of each sequestered record will be provided to the respondent, or to the individual from whom the record is taken if not the respondent, if requested. The respondent shall be notified of the charges and the procedures to be followed.

~~After determining that an inquiry will occur, the Vice Provost for Research or Vice President for Health Sciences, as appropriate, will direct the process whereby all original research records (or copies if originals cannot be located) and materials which may be relevant to the allegation are immediately secured. Prompt securing of records is in the best interests of both the respondent and UNM.~~

2.3 Inquiry Committee

The inquiry shall be carried out by a committee of three persons appointed by the Vice ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~President for Health Sciences~~, as appropriate, in consultation with the President of the Faculty Senate, or his/her designate. At least two Inquiry Committee members shall be tenured faculty. One of the tenured faculty members shall chair the committee. Committee members should be selected on the basis of relevant research background and experience. Faculty members from other universities may be named to the Inquiry Committee if a sufficient number of qualified UNM faculty members are not available. Members of the committee shall have no actual or potential conflicts of interest in the case, shall be unbiased, and shall, together, possess sufficient expertise to enable the committee to conduct the inquiry.

The respondent and the complainant shall be notified of the proposed committee membership and may object in writing to any of the proposed appointees on the grounds that the person, or the committee as a whole, does not meet the criteria stated above. The Vice ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~President for Health Sciences~~, as appropriate, in consultation with the President of the Faculty Senate, or his/her designate, will consider the objection and if it has merit, shall make appropriate substitution(s). In the case of disagreement regarding appointments, the Vice ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~President for Health Sciences~~, as appropriate, shall decide the challenge. That decision shall be final.

If the committee so requests, the Vice ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~President for Health Sciences~~, as appropriate, shall designate an official to assist the committee in conducting the inquiry. The committee shall receive a written charge from the Vice ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~President for Health Sciences~~, as appropriate, defining the subject matter of its inquiry prior to beginning its work.

2.4 Inquiry Process

The respondent and complainant shall be given an opportunity to interview with the Inquiry Committee. The committee may interview others and examine relevant research records, as necessary, to determine

whether there is sufficient credible evidence of possible research misconduct to warrant conducting an investigation. University legal counsel shall be available to the committee for consultation.

The length of the inquiry shall not exceed sixty (60) days unless prior written approval for a longer period is obtained from the Vice President Provost for Research or Vice Chancellor for Research President for Health Sciences as appropriate. If the period is extended, the record of the inquiry shall include documentation of the reasons for exceeding the sixty-day period.

2.5 Inquiry Report

The Inquiry Committee shall prepare a report that includes:

- (1) the names and titles of the committee members, and experts consulted, if any;
- (2) the allegations;
- (3) the PHS support, if any;
- (4) a summary of the inquiry process;
- (5) a summary of the evidence reviewed;
- (6) a summary of any interviews;
- (7) the conclusions of the inquiry as to whether an investigation is recommended; and
- (8) whether any other action should be taken if an investigation is not recommended.

The respondent shall be given fourteen (14) days to review the report and to add his or her comments, which will become part of the final inquiry report and record. Based upon the respondent's comments, the Inquiry Committee may revise its report.

2.6 Inquiry Determination

The Inquiry Committee final report will be sent to the Vice President Provost for Research or Vice Chancellor for Research President for Health Sciences, as appropriate, who will determine whether the results of the inquiry provide sufficient evidence of possible research misconduct to warrant conducting an investigation or whether the matter will not be pursued further. The respondent and complainant shall be notified in writing of the decision.

3. Investigation

3.1 Purpose and Initiation

The purpose of the investigation is to explore the allegations in detail, examine the evidence in depth, and determine specifically whether research misconduct has been committed, by whom, and to what extent. If instances of possible misconduct involving a different respondent are uncovered, the matter should be sent to the Vice President Provost for Research or Vice Chancellor for Research President for Health Sciences, as appropriate, to initiate a preliminary assessment.

The Investigation Committee will be appointed and the process initiated within thirty (30) days after the conclusion of the inquiry. If required by sponsoring agency regulations, the office of the Vice President Provost for Research or Vice Chancellor for Research President for Health Sciences, as appropriate, shall

notify the agency of its decision to commence an investigation on or before the date the investigation begins.

3.2 Securing Research Records

Any additional pertinent research records that were not previously sequestered during the inquiry will be immediately sequestered when the decision is made to conduct an investigation. The Vice [President Provost](#) for Research or Vice [Chancellor for Research President for Health Sciences](#), as appropriate, will direct this process. This sequestration should occur before or at the time the respondent is notified that an investigation will begin. The need for additional sequestration of records may occur for any number of reasons, including a decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. As soon as practicable, a copy of each sequestered record will be provided to the respondent, or to the individual from whom the record is taken if not the respondent, if requested.

3.3 Investigation Committee

The investigation shall be conducted by a committee of five persons appointed by the Faculty Senate Operations Committee, in consultation with the Chair of the Research Policy Committee or his/her designate. Committee members should be selected on the basis of relevant research background and experience. All persons appointed from UNM shall be tenured faculty. Tenured faculty members from other universities or senior researchers from research institutions may be named to the Investigation Committee if a sufficient number of qualified UNM faculty members are not available. Members of the committee shall have no actual or potential conflicts of interest in the case, shall be unbiased, and shall, together, possess sufficient expertise to enable the committee to conduct the investigation. No more than two members of the Inquiry Committee may be appointed to serve on the Investigation Committee.

The respondent and the complainant shall be notified of the proposed committee membership and may object in writing to any of the proposed appointees on the grounds that the person, or the committee as a whole, does not meet the criteria stated above. The Faculty Senate Operations Committee will consider the objection and if it has merit, shall make appropriate substitution(s), in consultation with the Chair of the Research Policy Committee or his/her designate. In the case of disagreement regarding appointments made by the Faculty Senate Operations Committee, the Vice [President Provost](#) for Research or Vice [Chancellor for Research President for Health Sciences](#), as appropriate, shall decide the challenge. That decision shall be final.

If the committee so requests, the Vice [President Provost](#) for Research or Vice [Chancellor for Research President for Health Sciences](#) shall designate an official to assist the committee in conducting the investigation. The committee shall receive a written charge from the Vice [President Provost](#) for Research or Vice [Chancellor for Research President for Health Sciences](#), as appropriate, defining the subject matter of its investigation prior to beginning its work.

3.4 Investigation Process

~~The investigation will normally involve examination of all relevant documentation. The Investigation Committee will pursue diligently all significant issues and leads discovered that are determined relevant to the~~

investigation, including any evidence or additional instances of possible research misconduct, and continue the investigation to completion. The committee shall make diligent efforts to interview the complainant, the respondent, and other individuals who might have information regarding aspects of the allegations. The interviews will be recorded on a recording device provided by the office of the Vice ~~President Provost~~ for Research or Vice ~~Chancellor for Research~~ ~~President for Health Sciences~~ as appropriate. A verbatim written record shall be made of all interviews. A transcript of his/her interview shall be provided to each witness for review and correction of errors, which shall be returned and become part of the investigatory file. University legal counsel shall be available to the committee for consultation.

3.5 Investigation Report

The Investigation Committee shall prepare a draft of the final report that includes:

- (1) the names and titles of the committee members, and experts consulted, if any;
- (2) the allegations;
- (3) the PHS support, if any;
- (4) a summary of the inquiry process;
- (5) a summary of the evidence reviewed;
- (6) a summary of any interviews;
- (7) findings and basis for each finding;
- (8) conclusion(s) as to whether research misconduct occurred; and
- (9) recommendations for institutional action.

Copies of all significant documentary evidence that is referenced in the report should be appended to the report.

A finding of research misconduct requires that four conditions be met:

- (1) the conduct at issue falls within this policy's definition of research misconduct;
- (2) the misconduct be committed intentionally, or knowingly, or recklessly;
- (3) there be a significant departure from accepted practices of the relevant research community; and
- (4) the allegation be proven by a preponderance of the evidence. This means that the evidence shows that it is more likely than not that the respondent committed research misconduct.

The respondent shall be given a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed thirty (30) days from the date he/she received the draft report to submit comments. The respondent's comments must be included and considered in the final report. The complainant may be provided with those portions of the draft investigation report that address the complainant's role and opinions in the investigation, and the complainant will have thirty (30) days to submit any comments to the investigation committee. The report may be modified, as appropriate, based on the complainant's comments.

~~The respondent will be provided with a copy of the draft investigation report for review and comment. The respondent will be allowed fourteen (14) days for review and any comments will be attached to the final report. The findings of the final report should take into account the respondent's comments in addition to all of the other evidence. The complainant may be provided with those portions of the draft investigation report that address the~~

~~complainant's role and opinions in the investigation, and the complainant will have fourteen (14) days to review and submit any comments to the Investigation Committee. The report may be modified, as appropriate, based on the complainant's comments.~~

If the Investigation Committee puts forward a final report with a finding of research misconduct, the respondent has 14 days to elect a hearing before the Vice President for Research or Vice Chancellor for Research ~~Provost or Vice President for Health Sciences~~, as appropriate. The hearing will allow for argument, rebuttal, cross-examinations and a written record of the proceedings.

3.6 Institutional Review and Determination

The Investigation Committee final report will be forwarded to the Vice President Provost for Research or Vice Chancellor for Research ~~President for Health Sciences~~, as appropriate. The Vice President Provost for Research will transmit the report to the Provost who is the University deciding official for cases where the respondent is not a Health Sciences Center employee. The Chancellor Vice President for Health Sciences is the deciding official for cases where the respondent is a Health Sciences Center employee. The deciding official will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions.

If the respondent has elected a hearing, the deciding official will conduct the hearing following the University model hearing procedure, available from the University Counsel's office. The Investigation Committee presents the case consistent with its report. The respondent presents the rebuttal. The respondent may have an advisor present.

The deciding official's decision should be consistent with the definition of research misconduct, the University's policies, and the evidence reviewed and analyzed by the Investigation Committee. The deciding official may also return the report to the Investigation Committee with a request for further fact-finding or analysis. The deciding official's final determination will be sent to the respondent and complainant. If the deciding official's decision varies from that of the Investigation Committee, the basis for rendering a different decision will be explained in the report to ORI and other agencies as appropriate.

Respondents may appeal the final determination to the University President. An appeal is limited to: (1) a claim of procedural error; and/or (2) a claim that the sanction imposed as a result of a finding of research misconduct is inappropriate.

Except as to PHS funded research, the investigation shall be completed within 180 days of the first meeting of the Investigation Committee. However, if for PHS sponsored the research, unless an extension has been granted, UNM must submit the following to ORI ~~the investigation shall be completed, with the final investigation report and final determination submitted to ORI,~~ within 120 days of the first meeting of the Investigation Committee: (1) a copy of the final investigation report with all attachments; (2) a statement of whether UNM accepts the findings of the investigation report; (3) a statement of whether UNM found misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the respondent. ~~, unless ORI grants an extension.~~

4. Actions Following Investigation

4.1 Finding of Research Misconduct

If the final determination is that research misconduct occurred, UNM shall take appropriate action, which may include but is not limited to:

- (1) notifying the sponsoring agency;
- (2) withdrawal or correction of all pending or published abstracts and papers emanating from the research;
- (3) removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, rank reduction or termination of employment in accordance with UNM policies and procedures. In cases involving faculty, implementation must be consistent with the Policy on Academic Freedom and Tenure;
- (4) determining whether law enforcement agencies, professional societies, professional licensing boards, collaborators of the respondent, or other relevant parties should be notified; and
- (5) any other steps deemed appropriate to accomplish justice and preserve the integrity of UNM and the credibility of the sponsor's program.

4.2 Restoration of Respondent's Reputation

If the final determination is that no research misconduct occurred, efforts shall be undertaken to the extent possible and appropriate to fully protect, restore, or maintain the credibility of the research project, research results, and the reputation of the respondent, the sponsor and others who were involved in the investigation or deleteriously affected thereby. Depending on the circumstances, consideration should be given to notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of research misconduct was previously publicized, expunging all reference to the research misconduct allegation from the respondent's personnel files, or reviewing negative decisions related to tenure or advancement to candidacy that occurred during the investigation. Any institutional actions to restore the respondent's reputation must first be approved by the Vice ~~President Provost~~ President Provost for Research or Vice ~~Chancellor for Research~~ President for Health Sciences, as appropriate.

4.3 Protection of the Complainant and Others

Regardless of whether UNM determines that research misconduct occurred, reasonable efforts will be undertaken to protect complainants who made allegations of scientific misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. The Vice ~~President Provost~~ President Provost for Research or Vice ~~Chancellor for Research~~ President for Health Sciences, or designee, will also take appropriate steps during the inquiry and investigation to prevent retaliation against the complainant. If a complainant believes that retaliation was threatened, attempted or occurred, he or she may file a complaint with the UNM Audit Department.

4.4 Allegations Made in Bad Faith

If relevant, the Vice ~~President Provost~~ President Provost for Research or Vice ~~Chancellor for Research~~ President for Health Sciences will determine whether the complainant's allegation of research misconduct was made in good faith. If an allegation was made in bad faith, appropriate disciplinary action will be taken in accordance with UNM policies and procedures. If the complainant is not associated with UNM, appropriate organizations or authorities may be notified and administrative or legal action considered.

5. Other Considerations

5.1 Requirements for Reporting to ORI When Funding from PHS Is Involved

5.1.1 The decision to initiate an investigation must be reported in writing to the Director, ORI, on or before the date the investigation begins. The notification must include at a minimum the name of the person(s) against whom the allegations have been made, the general nature of the allegation, and the PHS application or grant number(s) involved.

5.1.2 If UNM plans to terminate an inquiry or investigation without completing all relevant requirements of the PHS regulation, a report of such planned termination shall be made to ORI, including a description of the reasons for the proposed termination.

5.1.3 If UNM determines that it will not be able to complete the investigation within 120 days, a written request for an extension shall be submitted to ORI that explains the delay, reports on the progress to date, estimates the date of completion and describes other necessary steps to be taken. If the request is granted, UNM must file periodic progress reports as requested by ORI.

5.1.4 UNM will keep ORI apprised of any developments during the course of an investigation that may affect current or potential Department of Health and Human Services funding for the individual(s) under investigation or that the PHS needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.

5.1.5 ORI shall be notified immediately, at any time during a research misconduct proceeding, if there is any reason to believe that any of the following conditions exist:

(1) Health or safety of the public is a risk, including a need to protect human or animal subjects;

(2) HHS resources or interests are threatened

(3) Research activities should be suspended;

(4) There is a reasonable indication of possible violations of civil or criminal law;

(5) Federal action is required to protect the interests of those involved in the research misconduct proceeding;

(6) The research misconduct proceeding may be made public prematurely and HHS action may be necessary to safeguard evidence and protect the rights of those involved; or

(7) The research community or public should be informed.

~~ORI shall be notified at any stage of the inquiry or investigation if any of the following conditions exist:~~

~~(1) there is an immediate health hazard involved;~~

~~(2) there is an immediate need to protect federal funds or equipment;~~

~~(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;

(4) it is probable that the alleged incident is going to be reported publicly;

(5) the allegation involves a public health sensitive issue (e.g. a clinical trial); or

(6) there is reasonable indication of possible criminal violation in which case UNM must inform ORI within 24 hours of obtaining that information.

5.2 Requirements for Reporting When NSF Funding Is Involved

5.2.1 The decision to initiate an investigation must be reported immediately in writing to NSF.

5.2.2 NSF shall be notified at any stage of the inquiry or investigation if any of the following conditions exist:

(1) public health or safety is at risk;

(2) NSF's resources, reputation, or other interests need protecting;

(3) there is reasonable indication of possible violations of civil or criminal law;

(4) research activities should be suspended;

(5) federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected; or

(6) the scientific community or the public should be informed.

5.2.3 NSF shall be provided with a copy of the final investigation report.

5.2.4 The inquiry shall be completed within 90 days and the investigation completed within 180 days of its initiation. If completion of an inquiry or investigation will be delayed, NSF shall be notified and may require submission of periodic status reports.

5.3 ~~Interim~~ Administrative Action

UNM officials will take ~~interim~~ administrative actions, as appropriate, to protect federal funds and insure that the purposes of the federal financial assistance are carried out. UNM officials shall ensure that administrative actions taken by the institution and ORI are enforced and shall take appropriate action to notify other involved parties such as sponsors, law enforcement agencies, professional societies, and licensing boards, of those actions.

5.4 Termination of UNM Employment

The termination of the respondent's UNM 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 refuses to participate in the process after termination of employment, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

5.5 Record Retention

Records of the research misconduct proceeding will be maintained in a secure manner for seven (7) years after completion of any proceeding by UNM involving research misconduct allegation, or the completion of any ORI proceeding involving the allegation of research misconduct, whichever is later, unless custody of the records has been transferred to ORI or ORI has advised that the records no longer need to be retained. When it is determine that an investigation is not warranted, detailed documentation of the inquiry must be retained for at least seven (7) years after termination of the inquiry, so that ORI may assess the reasons why UNM decided not to conduct an investigation.

~~All documentation of an inquiry that does not lead to an investigation shall be maintained in University Counsel Office files for at least three (3) years after the conclusion of the inquiry. All documentation of an investigation shall be maintained in University Counsel Office files for five (5) years after the end of the investigation. Documentation shall be provided to the sponsoring agency and ORI upon request or if required by the agency's regulations. Documentation shall be treated as confidential personnel information to the extent provided for by law.~~

5.6 Reimbursement

If requested, the UNM Board of Regents in the pursuit of justice and fairness may, in its sole discretion, fully or partially reimburse the respondent and/or the complainant for legal fees in cases of unusual hardship.

5.7 Federal Regulatory Changes

If PHS, ORI, NSF or any other federal agency amends its requirements on research misconduct, those amendments shall govern where applicable and shall be incorporated into this policy by reference herein. Such changes in federal requirements shall supersede all relevant portions of this policy.

5.8 Revision

The Faculty Senate is authorized to make minor technical and implementing modifications to the detailed Research Misconduct Policy subject to approval of the President of the University.

HISTORY

Effective:

Research Misconduct Policy (amended) Approved by UNM Board of Regents April 13, 2004
Research Misconduct Policy (amended) Approved by Faculty Senate February 24, 2004
Research Misconduct Policy (amended) Approved by Faculty Senate April 22, 2003
Research Misconduct Policy (amended) Approved by UNM Board of Regents May 10, 2002
Research Misconduct Policy (amended) Approved by Faculty Senate April 23, 2002
Research Fraud Policy Approved by UNM Board of Regents October 10, 1996
Research Fraud Policy Approved by Faculty Senate September 10, 1996

DRAFT HISTORY

September 9, 2015—Proposed revised draft placed in new policy format for review by Vice Chancellor for Research, Richard Larson and the Faculty Senate Policy Committee

July 1, 2015 Supplemental Policy with proposed changes to E40 prepared by HSC

COMMENTS TO:
handbook@unm.edu

[FACULTY HANDBOOK HOME](#)

[TABLE OF CONTENTS](#)

[TABLE OF POLICIES](#)

[UNM HOME](#)

7. **A53 “Development and Approval of Faculty Policies”** Proposing changes to add definitions for policy, procedures, standards and guidelines.

Committee member Lee Brown moved to approve. Committee member Barbara Hannan seconded. The Policy Committee unanimously approved, as amended, pending the changes by Carol Stephens. There were no abstentions. The next step is to send the following Policy Draft with Carol’s definition changes to the Operations Committee for approval. Once the definitions are approved by OPS, they will be held until OPS approves any changes to A53 and the full Senate votes. A53 is currently out for campus comment. If any changes do come in, a revised document will be circulated to the Policy Committee via email for approval.

The definitions will be incorporated into A53 and then the full document will be issued in December.

A53: Development and Approval of Faculty Policies



Approved by: Faculty Senate

Effective Date: August 27, 2013 Revised [Draft 10/29/15](#)

Responsible Faculty Committees: Policy and Operations

Office Responsible for Administration: Office of the University Secretary

Revisions to the Policy Rationale, Policy Statement, and Applicability sections of this document must be approved by the full Faculty Senate.

POLICY RATIONALE

The *Faculty Handbook* provides University of New Mexico (UNM) faculty with a written record of faculty policies and procedures. Policies in the *Faculty Handbook* are unifying documents that describe academic principles, the reasoning behind the principles, and institutional procedures necessary for implementation. *Faculty Handbook* policies contain governing principles and procedures that mandate or constrain actions and apply to UNM faculty; therefore, the development of policies requires input from faculty members who have extensive knowledge on the subject matter and review by faculty members from a variety of academic disciplines at UNM.

POLICY STATEMENT

All UNM policies which pertain primarily to faculty and academic matters are placed in the *Faculty Handbook* and are subject to the review and approval requirements defined in this Policy Document, with the exception of Section B “Academic Freedom and Tenure” which follows a separate review and approval protocol. The scope of *Faculty Handbook* policies is established by the [Faculty Constitution](#) and the right to review and take action on these policies is granted to the faculty by UNM Board of [Regents Policy 5.1](#) “The Faculty’s Role in the University’s Academic Mission.”

This policy describes the process used to develop or amend *Faculty Handbook* policies, solicit input, and obtain approval.

1. Proposing a New Policy or Changes to Existing Policy. Any faculty member [or academic administrator](#) wishing to propose a change to an existing *Faculty Handbook* policy or propose a new policy should send their request to the Office of the University Secretary, who will forward it to the Faculty Senate Policy Committee (FSPC) for consideration. [This request should include a draft policy document which shows proposed changes to the existing policy with track changes, or in the case of a new policy the request will include a proposed policy draft addressing the concerns it is intended to address. This request should also include a statement of the reason\(s\) for the proposed policy change\(s\) or the new policy. Because faculty policy is a shared governance process, policy actions generally require one to two full semesters for appropriate review, approval, and implementation.](#) The FSPC will review the request and work with the appropriate Faculty Senate committee(s) to determine the most effective course of action. [The Office of University Secretary will notify the requestor of the action taken by the FSPC.](#)

2. Approval. Proposed new faculty policy statements, in their entirety, and changes to the Policy Rationale, Policy Statement, and Applicability sections of existing policies will be posted on the *Faculty Handbook* website for review by UNM faculty members. The Office of the University Secretary in consultation with the Chair of the FSPC will address any comments received from faculty and will forward the final proposed draft to the Faculty Senate for approval. Due to the nature of the policy or previous approval history, specific policies will also require approval by University faculty, the UNM Board of Regents, and/or the UNM President and/or Provost or the Chancellor for Health Sciences. Proposed changes to definition,

procedural, and information portions of a policy document will be reviewed by the FSPC in consultation with the responsible Faculty Senate Committee(s) listed in the Policy Heading. After review and consultation, the proposed changes can be made with approval by both the FSPC and the Faculty Senate Operations Committee.

3. Distribution and Notification of New or Amended Policy.

Upon approval, the new or amended policy will be placed on the *Faculty Handbook* website and announced to the campus. Deans and department chairs, or their designees, are responsible for:

- informing their faculty members of new policies or changes to existing policies; and
- updating all related departmental processes, procedures, and/or documents to reflect new or amended policies.

APPLICABILITY

All UNM academic faculty and administrators, including the Health Sciences Center and Branch Campuses.

Revisions to the remaining sections of this document may be amended with the approval of the Faculty Senate Policy and Operations Committee in consultation with the responsible Faculty Senate Committee listed in Policy Heading.

DEFINITIONS

Policy and Procedures are sections of each policy document. Changes to the Policy Section require approval of the approving bodies listed in the policy heading; at a minimum this includes the Faculty Senate. Changes to the procedures section requires approval of the Faculty Senate Policy and Operations Committees.

Policy. Provides the overall intention and direction of the policy and major mandated actions or constraints.

Procedures. Provide the information and/or steps necessary for policy compliance and outlines how the policy's requirements will be met.

To assist with implementation of the policy, standards and guidelines may be issued by the office responsible for administration of a specific policy, as identified in the heading of each policy.

Standards. Required processes necessary for compliance with the policy document.

Guidelines. Recommended practices or processes designed to streamline particular processes according to a set routine or sound practice. Guidelines allow some discretion or leeway in interpretation, implementation, or use.

WHO SHOULD READ THIS POLICY

- Board of Regents
- Faculty
- Academic staff
- Academic deans and other executives, department chairs, directors, and managers

RELATED DOCUMENTS

[UNM Regents' Policy Manual 5.1](#) “The Faculty’s Role in the University's Academic Mission”
Faculty Handbook: [Policy A50](#) “The Faculty’s Role in the University's Academic Mission”
Faculty Handbook: [Policy A51](#) “Faculty Constitution”

[University Administrative Policies](#)

[University Catalog](#)

[Pathfinder](#)

HSC Policy on Policies, which contains procedures specific to the HSC

CONTACTS

Direct any questions about this Policy to the [Office of the University Secretary](#).

PROCEDURES

Faculty Handbook policies are designed to ensure that policy level portions can only be changed with approval of the Faculty Senate, but also allow for a streamlined approval process for definition, procedural and information oriented sections of the policy to allow for timely updating to reflect new practices and/or information.

1. *Faculty Handbook* policies are composed of the following sections.

1.1 Heading. In addition to policy title and number, the heading of the policy identifies:

- The approving bodies (i.e. Faculty Senate, Provost/Chancellor for Health Sciences, President, Board of Regents, and/or University Faculty).
- Responsible Faculty Senate committee(s).
- Office responsible for administration of the Policy.

1.2 Policy Rationale. Describes the reason for the policy, its relationship to UNM's academic values and/or mission, and any philosophical, stewardship, legal, regulatory, or other requirements the policy aims to meet.

1.3 Policy Statement. Includes the overall intention and direction of the policy and major mandated actions or constraints. It does not include procedures, which are placed in a separate section to allow for greater flexibility when updating is necessary.

1.4 Applicability. Identifies which individuals and/or University units are subject to the policy. Some policies may apply to the entire academic community, while others may apply only to Main Campus, the Health Sciences Center, and/or Branch Campuses.

1.5 Definitions. Defines terms that have specialized or particular meaning in the policy.

1.6 Who Should Read This Policy. Lists individuals who must understand the policy in order to make decisions and/or do their jobs.

1.7 Related Documents. Lists related UNM policy documents and other UNM and external documents that provide helpful, relevant information.

1.8 Contacts. Contains information to assist faculty members in complying with the policy.

1.9 Procedures. Includes procedures necessary for policy compliance and outlines how the policy's requirements will be met.

1.10 History. Lists dates of amendments and summary information on changes approved.

2. Approval process for Policy Level Portions of Faculty Policies. Changes to policy level portions of the policy (sections 1.2 –1.4, herein) require approval by the approving bodies listed in the policy heading. At a minimum this includes the Faculty Senate and depending on the impact of the policy, approval may also require action by the President or Provost/Chancellor for Health Sciences, Board of Regents, and/or University faculty.

3. Approval process for Definitions, Procedures, and Information Portions of Faculty Policies. Changes to definition, procedural and information portions of the policy (sections 1.5 –1.10, herein) can be made with approval by both the Faculty Senate Policy Committee (FSPC) and the Faculty Senate Operations Committee in consultation with the responsible Faculty Senate Committee(s) listed in the policy heading.

HISTORY

April 28, 2015 – Amended policy approved by the Faculty Senate

February 4, 2014 – Amended procedures approved by Faculty Senate Operations Committee

January 29, 2014 – Amended procedures approved by Faculty Senate Policy Committee

August 27, 2013 – Approved by the Faculty Senate

Draft History

October 28, 2015—Definitions added to policy document and Section 4. added to the Procedures section to allow for issuance of standards and guidelines.

October 28, 2015 – Changes to policy sent to faculty for campus comment

8. **COG Taskforce recommendations:** Memorandum from the task force identifies references to be added to current faculty policies and also some concerns and/or recommendations the task force would like the Policy Committee to consider.

Lee Brown suggested that the Policy Co-Chairs identify the five most pressing policies and put them on a future agenda. Chair Gauderman said the Policy Committee Small Group will review the list of work and prioritize at their November 20, 2015 meeting. The group will identify the “low hanging fruit” to be addressed first.

9. **UAP Policies out for Campus Comment:** Four new policies, significant changes to four existing policies (including the Whistleblower Policy), minor changes to three existing policies, and proposed rescission of one policy.

There are significant changes made to the Whistleblower Policy, some of which are concerning to the Policy Committee. The Committee discussed some of the issues with the revision. Committee member Marsha Baum will email concerns with the Whistleblower Policy to Carol Stephens and Vivian Valencia. Carol and Vivian will develop a list of concerns and send to the Policy Committee via email for revision and approval. If approved by the Committee, the concerns will be posted to the comment section on the Policy Office website before the close of the comment period.

The Policy Committee also felt that the scope, significance and magnitude of the policy changes require more than a 30 day review and comment period at this time of year. There are nine other policies out for comment and with the end of the semester, it is difficult for faculty to have an opportunity to review and comment. The concern over the 30-day comment period will be included in the Policy Committee comments posted to the Policy Office site.

10. **Adjourned.** The meeting adjourned at 4:54