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**RESPONSIBLE CONDUCT OF RESEARCH AND SCHOLARLY ACTIVITIES:
 PROCEDURES FOR RESPONDING TO ALLEGED RESEARCH MISCONDUCT¹**

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¹ These procedures for the Boston campus of the University of Massachusetts for implementing Board of Trustees' Policy T08-010 *Policy on Responsible Conduct of Research and Scholarly Activities* were approved by the Office of the President on April 6, 2009.

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

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

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

II. STATEMENT ON RESPONSIBLE CONDUCT OF RESEARCH AND SCHOLARLY ACTIVITIES

The University of Massachusetts Boston requires that all research and scholarly activities be conducted with strict adherence to the highest possible professional, ethical, and legal standards. Misconduct in research and scholarly activities is harmful to the University's teaching, research, and public service missions and cannot be tolerated. We accept our dual responsibilities to provide an environment that promotes integrity of research and scholarly activities, and to establish and enforce procedures that inquire into and deal objectively, fairly, and expeditiously with all allegations or evidence of misconduct. Because an allegation of misconduct, even if unjustified, may damage an individual's career, any such allegation must be handled in a prudent and confidential manner with full attention given to the rights of all individuals involved.

III. DEFINITIONS

A. Research and Scholarly Activities

Research and scholarly activities include most of the professional activities that make up research, scholarship, and creative pursuits. Research and scholarly activities may be unfunded, funded by the University of Massachusetts Boston, or funded by an external agency or entity. Research and scholarly activities include but are not limited to:

- Basic, applied, and demonstration research, including laboratory research, fieldwork, observational studies, survey research, case studies, scholarship in the humanities, and artistic expression.
- Presentations, performances, or publication of the results of research, scholarship, and creative activities.
- The process of applying for funds to support research, scholarship, and creative activities.
- The review of the research and scholarly activities of others, including that of students.
- Programmatic and fiscal reporting on the use of sponsored program funds that support research, scholarship, and creative activities.

B. Misconduct in Research and Scholarly Activities

Misconduct in research and scholarly activities means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, performing, or reviewing research, or in reporting research results. It does not include honest errors in the recording, selection, or analysis of data or honest differences in interpretations or judgments of data.

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

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

The University of Massachusetts Boston may make a finding of misconduct in research and scholarly activities under the procedures described in this document even if no finding of misconduct is made under applicable state or federal law or policy.

IV. RESPONSIBILITIES

A. Personnel Engaged in Research and Scholarly Activities

All personnel engaged in research and scholarly activities – faculty and staff members, students, and administrators – are responsible for maintaining the highest professional, ethical, and legal standards in their research and scholarly activities. A principal investigator, in particular, bears an increased responsibility with regard to the members of his or her research group. In particular, principal investigators must assure:

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

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

B. Members of the University of Massachusetts Boston Community

All members of the University of Massachusetts Boston community are responsible for reporting in good faith observed or apparent misconduct in research and scholarly activities, or what they believe to be an activity that could be construed as possible misconduct in research and scholarly activities. It is not necessary that someone filing a complaint be directly affected negatively by the alleged actions; it is sufficient that the complainant believe that misconduct has occurred.

Informal requests for guidance about whether suspected misconduct meets the definition of misconduct in research and scholarly activities made to the vice provost for research or with other administrators (e.g., research compliance manager in the Office of Research and Sponsored Programs, department chairperson, dean of a college or school, research institute director), will not, in itself, be construed as an allegation of misconduct in research and scholarly activities that invokes these procedures.

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

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

C. Administrators

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

The vice provost for research shall maintain accurate records on the subject of misconduct in research and scholarly activities and, when required, shall provide necessary reports in a timely manner to relevant federal and state agencies. The vice provost for research shall represent the interests of the University of Massachusetts Boston when allegations of misconduct in research and scholarly activities are made about present or former research personnel that involve outside institutions.

D. Responsible Conduct of Research Board

A Responsible Conduct of Research Board shall be constituted, chaired by the vice provost for research and consisting of each and every college and school dean and two tenured faculty members from each college and school nominated by the deans and appointed by the vice provost for research. In addition to the specific responsibilities described below, this board will be responsible for making recommendations concerning (a) training members of the campus community on matters related to the responsible conduct of research and scholarly activities, and (b) changes to the procedures contained in this document.

V. TIMELINESS

Time is of the essence in responding to an allegation of misconduct in research and scholarly activities. Deadlines cited in these procedures are intended to serve as the outside limits within which actions will occur. All persons responsible for administering these procedures shall endeavor to meet all deadlines, but failure to do so will not prevent the process from continuing.

VI. CONFIDENTIALITY

Justice requires that the legal rights, as well as the right of academic freedom, of the complainant—the individual alleging misconduct in research and scholarly activities, also referred to as the whistleblower, the respondent(s)—the person(s) alleged to have engaged in misconduct in research and scholarly activities, and any other parties affected by alleged misconduct, including research subjects, be protected. The University of Massachusetts Boston will make every effort to protect these rights and will undertake to prevent any action that threatens or compromises them. In particular, confidentiality shall be maintained for any records or evidence from which research subjects might be identified. All those who are involved in any aspect of the proceedings described in these procedures shall protect the privacy of the complainant and the privacy of the respondent(s) to the maximum extent possible.

VII. RETALIATION

The University of Massachusetts Boston shall not penalize any individual—complainant, witness, administrator, board member—for their participation in the procedures described below. Complaints of retaliation should be addressed to the vice provost for research who shall advise the injured party of his or her rights in the matter. Any act of retaliation directed against any person who suspects or reports an allegation of misconduct shall be treated as an additional allegation of misconduct and subject to the procedures in this document.

VIII. NON-PARTICIPATION BY THE RESPONDENT

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

IX. SANCTIONING PERSONS WHO BRING MALICIOUS ALLEGATIONS

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

X. PROCEDURES FOR REVIEWING ALLEGED MISCONDUCT IN RESEARCH AND SCHOLARLY ACTIVITIES

A. Complaint

1. A complaint alleging misconduct in research and scholarly activities should be delivered to the vice provost for research in person or in a sealed envelope marked "confidential."

Any other person receiving a complaint shall forward it in a timely manner to the vice provost for research.

2. Upon receipt of a complaint alleging misconduct in research and scholarly activities, the vice provost for research shall, within five (5) business days, complete a review of the complaint to determine whether it should properly be characterized as an allegation at all and whether it is substantive. To make this determination, the vice provost for research need not, but may, gather information beyond that submitted with the complaint and informally on a confidential basis with others in the university community as appropriate. The review shall be conducted so as to preserve, insofar as possible, the confidentiality of the inquiries made and of the information gathered.
3. The vice provost for research shall inform the respondent(s) of the alleged misconduct and, if the respondent(s) so desire(s), receive an account(s) of the situation under inquiry from the respondent(s). In addition, the vice provost for research shall inform the appropriate unit head (e.g., college or school dean, research institute director, vice chancellor) of the complaint alleging misconduct in research and scholarly activities by a respondent in his or her unit.
4. If the vice provost for research finds that the complaint should not be characterized as an allegation of misconduct or that the complaint is not substantive, then the complaint will be referred to a different administrative process or closed without further proceeding of any kind. If a complaint is closed, then no record will be maintained other than a sealed written report maintained by the vice provost for research stating the reasons the complaint was closed, which will not be noted or made a part of any personnel or other official record of either the complainant or of the respondent(s). The vice provost for research shall notify the complainant of the determination that the complaint was closed. The complainant may appeal the decision of the vice provost for research to the provost in writing, specifying the factual basis for reversing the decision, and the provost shall make the final decision on whether to proceed with an inquiry. In addition, the vice provost for research shall undertake, as appropriate, reasonable and practical efforts to alleviate any diminution of the reputation(s) of the respondent(s) and to alleviate any diminution of the reputation of the complainant who has in good faith made the allegation of misconduct in research and scholarly activities, and to protect against and counter any potential or actual retaliation against the complainant.
5. If the vice provost for research finds there is sufficient substance to the allegation of misconduct to proceed with an inquiry, then he or she shall inform the complainant and the respondent(s) in writing of his or her decision.
6. The respondent(s) has (have) the right to submit to the vice provost for research written comments concerning the review outcome, which comments will be attached and included thereafter with the outcome of the review.
7. Either before or when the vice provost for research notifies the respondent of the allegation, inquiry, or investigation, the vice provost for research shall take interim administrative actions, as necessary and appropriate, to protect any research records until all proceedings relating to the alleged misconduct are complete. In particular, the vice provost for research shall take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner. Where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. However, where appropriate, the respondent(s) shall be given copies

of, or reasonable, supervised access to the research records. In addition, if the research and scholarly activities are sponsored by an external entity, the vice provost for research shall take appropriate actions to protect sponsor funds and equipment to ensure that the purposes of the external funding are carried out.

8. The vice provost for research shall immediately determine whether a federal or state law or policy concerning misconduct in research and scholarly activities applies and, if it does, conform also to its requirements throughout the application of the procedures described below. This may require immediate notification of the federal or state agency, appropriate interim action(s) to safeguard research data or materials or to protect agency funds and equipment, or periodic reporting to and consultation with agency officials. For example, in cases of alleged misconduct in research and scholarly activities involving sponsorship by the U.S. Department of Health and Human Services (DHHS), the vice provost for research is required to immediately notify its Office of Research Integrity (ORI) if it is ascertained that any of the following conditions exist: (a) the health or safety of the public is at risk, including an immediate need to protect human or animal subjects; (b) federal resources or interests are threatened; (c) research activities should be suspended; (d) there is reasonable indication of possible violations of civil or criminal law; (e) federal action is required to protect the interests of those involved in the research misconduct proceeding; (f) it is probable that the research misconduct proceeding may be made public prematurely and the agency may wish to safeguard evidence and protect the rights of those involved; or (g) the research community or public should be informed.
9. A complainant may withdraw a complaint alleging misconduct in research and scholarly activities at any time after it has been filed, provided the respondent(s) agrees (agree) to the withdrawal.

B. Inquiry

1. When the vice provost for research determines that a complaint alleging misconduct in research and scholarly activities is substantive, then he or she shall, within five (5) business days, appoint a Committee of Inquiry. The purpose of the inquiry is to determine whether there are sufficient grounds to warrant an investigation of the alleged misconduct. The inquiry shall be conducted so as to preserve, insofar as possible, the confidentiality of the inquiries made and of the information gathered.
2. The Committee of Inquiry will consist of a chairperson and at least two (2) and no more than six (6) other members of the Responsible Conduct of Research Board appointed by the vice provost for research. Ordinarily the chairperson will be the dean of the school or college with which the respondent(s) is (are) affiliated. The members of the Committee of Inquiry will have the necessary and appropriate expertise to evaluate information relevant to the alleged misconduct. Experts in the University of Massachusetts Boston community who are not members of the Responsible Conduct of Research Board and who are from disciplines appropriate to the nature of the particular alleged misconduct may be appointed to the committee. No one who has any real, apparent, or potential personal, professional, or financial conflicts of interest shall be appointed to the committee.
3. The Committee of Inquiry shall review the complaint and related documents, gather relevant information, conduct preliminary fact finding, and interview affected parties, including the complainant and the respondent(s), and others in the university community.
4. The Committee of Inquiry shall complete its inquiry and issue its final written report within thirty (30) business days of the appointment of the committee. Any need for

additional time to complete the inquiry must be documented in writing and approved by the vice provost for research.

5. The chairperson of the Committee of Inquiry shall transmit to the vice provost for research the final written report consisting of a summary of the evidence reviewed, summaries of relevant interviews, the committee's findings and the reasons therefore, and the committee's recommendation concerning whether to proceed with an investigation. A copy of the report will be provided to the respondent(s), the complainant, and to other parties who, because of law or policy (e.g., state or federal agencies), have a right to receive the report.
6. The respondent(s) has (have) the right to submit to the vice provost for research written comments concerning the final report of the Committee of Inquiry, which comments will be attached and included thereafter with the report.
7. The vice provost for research shall review the findings and recommendations of the Committee of Inquiry and decide whether an investigation is warranted. The vice provost shall inform the complainant and the respondent(s) in writing of his or her decision in the manner required under applicable law (including in accordance with 42 CFR Part 93, if applicable).
 - a. If the decision of the vice provost for research is consistent with the Committee of Inquiry recommendation and is to proceed with an investigation, then the vice provost for research shall proceed as described in Section X.C.
 - b. If the decision of the vice provost for research is consistent with the Committee of Inquiry recommendation and is not to proceed with an investigation, then the matter will be closed, unless the complainant wishes to appeal the decision to the provost in writing, specifying the factual basis for reversing the decision. In closing the matter, one copy of all the information assembled in the course of the inquiry will be placed in a sealed file and maintained by the vice provost for research. The vice provost for research may, at his or her discretion, issue a written letter of advice to the respondent(s) with copies to those administrators in the academic unit of the respondent(s). Upon appeal, the provost shall make the final decision on whether to proceed with an investigation. If the decision of the provost is to proceed with an investigation, then the vice provost for research shall proceed as described in Section X.C.
 - c. If the decision of the vice provost for research is not consistent with the recommendation of the Committee of Inquiry, then the chairperson of the Committee of Inquiry can appeal the decision to the provost in writing, specifying the factual basis for reversing the decision. Upon appeal, the provost shall review the record and make the final decision on whether to proceed with an investigation. If the decision of the provost is to proceed with an investigation, then the vice provost for research shall proceed as described in Section X.C.
8. If the final decision is to proceed with an investigation, then the vice provost for research shall, as required under existing federal and state law or policy (including the requirements of 42 CFR Part 93, if applicable) and as may be required by the grant or contract terms and conditions of a sponsoring agency, notify any appropriate agency or entity of the alleged misconduct in research and scholarly activities and the decision to proceed with an investigation no later than on or before the date on which the investigation begins. In addition, the vice provost for research shall continue to safeguard the research records and evidence and to protect agency funds and equipment.

9. If the final decision is not to proceed with an investigation, then the vice provost for research shall, as required under existing federal and state law or policy and as may be required by grant or contract terms and conditions of a sponsoring agency, notify any appropriate agency or entity of the decision not to proceed with an investigation. In addition, the vice provost for research shall undertake, as appropriate, all reasonable and practical efforts to alleviate any diminution of the reputation(s) of the respondent(s) and to alleviate any diminution of the reputation of the complainant who has in good faith made the allegation of misconduct in research and scholarly activities, and to protect against and counter any potential or actual retaliation against the complainant. The vice provost for research shall undertake, as appropriate, all reasonable and practical efforts to alleviate any diminution of the reputation of any member of the Committee of Inquiry, and to protect against and counter any potential or actual retaliation against such member.
10. The inquiry must be completed within 60 calendar days of its initiation unless circumstances clearly warrant a longer period. If the inquiry takes longer than 60 days to complete, the inquiry record must include documentation of the reasons for exceeding the 60-day period.

C. Investigation

1. In those cases of alleged misconduct in research and scholarly activities when the outcome of the inquiry is to proceed with an investigation, then the vice provost for research shall, within five (5) business days, appoint a Hearing Panel to conduct an investigation. The purpose of the investigation is to determine whether misconduct in research and scholarly activities, as defined above, has occurred, and, if so, to recommend appropriate sanctions or penalties. The investigation shall be conducted so as to preserve, insofar as possible, the confidentiality of the inquiries made and of the information gathered.
2. For an allegation of misconduct in research and scholarly activities to be considered by a Hearing Panel, it must be reduced to the form of a signed statement setting forth clearly and concisely the alleged misconduct. The complainant who brought the misconduct allegation to the attention of the vice provost for research, especially in circumstances in which the complainant has been directly affected by the alleged misconduct, ordinarily will prepare and sign the complaint. In cases in which the alleged misconduct has no specific alleged victim, then the chairperson of the Committee of Inquiry shall prepare and sign the complaint. In all cases, the signatory to the complaint becomes the complainant in the proceedings of the Hearing Panel.
3. The Hearing Panel will consist of five (5) members of the Responsible Conduct of Research Board, plus additional members up to a maximum of nine (9). At least two (2) members of the Hearing Panel shall be from the college or school with which the respondent(s) is (are) affiliated. The Hearing Panel will include members with the necessary and appropriate expertise to carry out a thorough and authoritative evaluation of the relevant evidence. Experts in the University of Massachusetts Boston community who are not members of the Responsible Conduct of Research Board and who are from disciplines appropriate to the nature of the particular alleged misconduct may be appointed to the panel. No one who has any real, apparent, or potential personal, professional, or financial conflicts of interest shall be appointed to the panel. The vice provost for research shall designate one member of the panel to serve as presiding officer.
4. Before the Hearing Panel is convened, both the respondent(s) and the complainant shall have the right to object to the appointment of any individual as a member of the Hearing

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

5. Before the date of the hearing, the complainant and the respondent(s) shall meet with the presiding officer to clarify the issues and to establish areas of agreement and disagreement. To encourage a fair and focused investigation, the presiding officer shall notify the Hearing Panel at the start of its proceedings about points of agreement and disagreement among the parties.
6. The presiding officer shall:
 - a. Ensure an orderly presentation of all relevant evidence;
 - b. Ensure that the proceedings are recorded electronically, and then summarized;
 - c. Ensure that no individuals responsible for carrying out any part of the proceeding have any real, apparent, or potential personal, professional, or financial conflicts of interest with the complainant, respondent(s), or witnesses; and
 - d. See that an impartial decision based on the evidence presented at the hearing is issued by the Hearing Panel no later than ten (10) business days after the conclusion of the hearing or, if written comments are submitted to the panel after the hearings conclude, within ten (10) business days after their submission. Any need for additional time to complete the hearings must be documented in writing and approved by the vice provost for research.
7. The Hearing Panel shall conduct a full, fair, and objective hearing, which ensures all the rights of all parties involved, to hear testimony and consider evidence related to the complaint, including grant or contract files, research data, reports, scholarly publications, manuscripts, correspondence, computer files, laboratory records, correspondence, memoranda, e-mail messages, and notes of telephone conversations. The investigations may also include inspection of laboratory or clinical facilities, equipment, or materials. The panel may review previous research and scholarly activities of the affected personnel, or records of previous inquiries or investigations concerning allegations of misconduct by the respondent(s), if relevant to the investigation. The hearing, although formal, is not a court proceeding and the Hearing Panel shall not be bound by the procedures and rules of evidence of a court of law. During the hearing, the Hearing Panel shall:
 - a. Define issues of contention;
 - b. Receive, consider, and admit evidence pertinent to the complaint;
 - c. Interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and electronically record each interview, provide the recording or transcript to the interviewee for correction, and include the recording in the record of the investigation;
 - d. Ensure that the complainant and respondent(s) has (have) the opportunity to hear and respond orally and in writing to any testimony, to examine all evidence, present their claims orally or in writing, and to present evidence and query witnesses on the issues in contention;

- e. Continue the hearing to a subsequent date if necessary to permit the complainant and respondent(s) to produce additional evidence, witnesses, or other relevant materials;
 - f. Change the date, time or place of the hearing on its own motion or for good reason shown by the complainant and respondent(s), and with due notice to all parties;
 - g. Permit the complainant and respondent(s) to submit written comments within ten (10) business days after the conclusion of the hearing; and
 - h. Rule by majority vote of its members on all questions of fact, interpretations of rules, regulations and policies, recommendations for sanctions or penalties, and any requests that are made during the hearing.
8. The Hearing Panel shall conduct its hearings by the following procedures:
- a. Unless otherwise agreed by a majority of the Hearing Panel, a closed hearing will be convened within ten (10) business days after the Hearing Panel has been appointed by the vice provost for research.
 - b. The presiding officer of the Hearing Panel may consult with the Office of the General Counsel and may request representation by the Office of the General Counsel during the hearing.
 - c. The presiding officer of the Hearing Panel may request that the vice provost for research identify experts from outside the university community who may serve as consultants in the panel's review of materials, physical evidence, and the testimony of witnesses.
 - d. In most instances, the complainant and respondent(s) will be expected to speak for themselves. The complainant and respondent(s) shall have the right to be accompanied and advised by two (2) people at any stage of the proceedings, neither of whom shall be an attorney. Advisors shall not address the Hearing Panel directly, except in special cases and only with permission of the presiding officer.
 - e. If either the complainant or respondent(s) is a member of a collective bargaining unit, the advisors may, upon the request of the complainant or respondent(s), be representatives of his or her union. However, neither shall be required to be advised by a union representative. In cases when there is no request for union representation by a member of a union, the presiding officer shall notify the union that a hearing has been scheduled and the union will be allowed to send an observer.
 - f. The Hearing Panel shall record the hearing electronically and the records will become the property of the University of Massachusetts. Subsequent to the hearing, the complainant and respondent(s) may have supervised access to the records by application to the vice provost for research.
9. The proceedings before the Hearing Panel shall be as follows:
- a. The presiding officer shall read the complaint and ask the respondent(s) either to admit or to challenge each and all allegation(s).
 - b. The complainant may present a brief opening statement, followed by a brief opening statement from the respondent(s).
 - c. The panel shall give the complainant and respondent(s) the opportunity to present all relevant evidence, beginning with the complainant.

- d. The complainant may present a brief concluding statement, followed by a brief concluding statement from the respondent(s).
 - e. The complainant and respondent(s) may submit written comments within ten (10) business days after the conclusion of the hearing, provided that he or she has notified the presiding officer of his or her intention to submit written comments within two (2) business days after the conclusion of the hearing, which comments will be attached and included thereafter with the report. The Hearing Panel will consider such comments and, as appropriate, incorporate responses to such comments in the final written report of the panel.
 - f. The Hearing Panel, by a majority vote of its members, may make other rules concerning proceedings that it deems appropriate to carry out the purpose of the panel.
10. All aspects of the investigation must be completed within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment to respondent(s) and complainant, and sending the final report to the applicable sponsoring agency. Any need for additional time to complete the investigation must be documented in writing and must be submitted by the Hearing Panel for approval by the vice provost for research. If unable to complete the investigation in 120 days, the vice chancellor for research will ask the applicable sponsoring agency for an extension in writing.
 11. The vice provost for research shall, during the investigation, conform to any and all applicable federal and state law or policy concerning reporting requirements. If facts are disclosed during the investigation that may affect current or potential federal or state funding of any respondent(s), then the vice provost for research shall take the necessary and appropriate steps to inform the relevant federal or state agency to ensure appropriate use of federal or state funds and otherwise safeguard the public interest.
 12. After the hearing is completed, the Hearing Panel shall convene for private deliberations to determine if, based upon the testimony and evidence, misconduct in research and scholarly activities on the part of the respondent(s) has occurred. In accordance with federal regulations, a finding of misconduct requires that (a) there be a significant departure from accepted practices of the relevant research community; (b) the misconduct be committed intentionally, knowingly, or recklessly; and (c) the allegation be proven by a preponderance of evidence.
 13. The respondent(s) will be given a copy of the draft written report of the panel and, concurrently, a copy of, or supervised access to, the evidence on which the report is based. The comments of the respondent(s) on the draft report, if any, must be submitted within 30 days of the date on which the respondent received the draft report. Likewise, the complainant will be given a copy of the draft written report of the panel or relevant portions of that report. The comments of the complainant, if any, must be submitted within 30 days of the date on which the complainant received the draft written report or relevant portions of it. The vice provost for research and the Hearing Panel shall consider and address the respondent(s) and complainant comments before issuing the final written report of the panel, which comments will be attached and included thereafter with the report.
 14. The handling of the final written report will proceed as follows:
 - a. The final written report of the Hearing Panel will describe how the hearing was conducted, provide an accurate summary of the views of the complainant and of the respondent(s), include a comprehensive record of the evidence that was examined

and the sources of that evidence, indicate the facts established by the panel, and state the finding of the panel concerning whether misconduct in research and scholarly activities on the part of the respondent(s) has occurred and the reasons for the finding.

- b. If the Hearing Panel finds that misconduct in research and scholarly activities has not occurred, then the presiding officer shall recommend to the vice provost for research that the matter be closed. The vice provost for research shall undertake, as appropriate, all reasonable and practical efforts to alleviate any diminution of the reputation(s) of the respondent(s) and to alleviate any diminution of the reputation of the complainant who has in good faith made the allegation of misconduct, and to protect against and counter any potential or actual retaliation against the complainant. The vice provost for research shall undertake, as appropriate, all reasonable and practical efforts to alleviate any diminution of the reputation of any witnesses and any member of the Hearing Panel, and to protect against and counter any potential or actual retaliation against them.
- c. If the Hearing Panel finds that misconduct in research and scholarly activities has occurred, then the panel shall recommend that the provost impose sanctions or penalties that reflect the nature and severity of the misconduct. The vice provost for research shall undertake, as appropriate, all reasonable and practical efforts to alleviate any diminution of the reputation of the complainant who has in good faith made the allegation of misconduct, and to protect against and counter any potential or actual retaliation against the complainant. The vice provost for research shall undertake, as appropriate, all reasonable and practical efforts to alleviate any diminution of the reputation of any witnesses and any member of the Hearing Panel, and to protect against and counter any potential or actual retaliation against them.
- d. The respondent(s) has (have) the right to review the final written report of the Hearing Panel and to submit to the presiding officer written comments, which comments will be attached and included thereafter with the report.
- e. The presiding officer shall transmit the final written report of the Hearing Panel, with any attachments, to the complainant, the respondent(s), the vice provost for research, and the provost. The provost shall review the report and make the final decision in the matter.

D. Adjudication and Appeal

1. The Provost, after consultation with the presiding officer of the Hearing Panel and the vice provost for research, shall act upon the recommendations of the Hearing Panel within ten (10) business days of their receipt.
2. When imposing sanctions or penalties, the provost may take into account any prior record of violations by the respondent(s) of university policies.
3. Sanctions or penalties imposed by the provost on the respondent(s) will be consistent with personnel policies of the University of Massachusetts and with collective bargaining agreements in force at the time of the decision and may include, but are not limited to:
 - a. Letter of reprimand to be included in the personnel file(s) of the respondent(s);
 - b. Removing the respondent(s) from the particular research or scholarly project;
 - c. Monitoring of the future research and scholarly activities of the respondent(s);
 - d. Probation, suspension, or debarment from engaging in research and scholarly activities;

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

E. Advance Notice of Admissions, Settlements or Other Action

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

F. Cooperation with Authorities

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