

Policies and Procedures Manual

Title: Scholarly Misconduct Policy
Policy Administrator: Vice President for Academic Affairs and Dean of the College
Effective Date: Jul-01-2017
Approved by: Academic Governance Council

Purpose:

The College of the Holy Cross (College) fosters a spirit of intellectual inquiry and actively promotes a climate of academic freedom in which scholarly activities undertaken responsibly and ethically can flourish. As an institution, we take great pride in the achievements of our students, faculty, and employees and in their dedication to advancing the cause of knowledge with integrity. It is for these reasons that the College is committed to responding promptly and judiciously to any allegations of possible scholarly misconduct according to the procedures outlined in this policy and in compliance with applicable laws, regulations, rules and other legal obligations.

Policy:

This policy applies to any person engaged in scholarly activity relating to the College, regardless of the funding source and regardless of the department or discipline.

This policy applies to allegations of scholarly misconduct in scholarship, applications or proposals for funding of scholarship, and any scholarship proposed, performed, reviewed, or reported, or any scholarly record generated from that scholarship, regardless of whether an application or proposal for funding resulted in a grant, contract, cooperative agreement, or other form of support. The College will comply with the requirements of federal and non-federal sponsors for the reporting of potential scholarly misconduct when allegations involve sponsored research projects.

This policy does not apply to allegations of scholarly misconduct by students except scholarly misconduct allegations required by law to be addressed under this policy. Allegations of scholarly misconduct by students not required to be addressed under this policy will be referred to the appropriate class dean.

All institutional members have a responsibility to report observed, suspected, apparent, or alleged scholarly misconduct to the Research Integrity Officer (RIO), or, in exceptional circumstances, to the College's General Counsel.

Procedures:

A. Definitions

1. Advisor
2. Allegation
3. Complainant
4. Deciding Official
5. Evidence
6. Funding Provider
7. Good Faith
8. Inquiry
9. Institutional Member
10. Investigation
11. Preponderance of the Evidence
12. Records of Scholarly Misconduct Proceedings
13. Research Integrity Officer
14. Respondent
15. Retaliation
16. Scholarly Misconduct
17. Scholarly Misconduct Proceeding
18. Scholarly Record
19. Sponsored Research Officer

B. Rights and Responsibilities

1. Research Integrity Officer
2. Sponsored Research Officer
3. Complainant
4. Respondent
5. Deciding Official

C. General Policies and Principles

1. Responsibility to Report Misconduct
2. Cooperation with Scholarly Misconduct Proceedings
3. Confidentiality
4. Protecting Complainants, Witnesses, and Committee Members
5. Protecting the Respondent
6. Interim Administrative Actions and Notifying Funding Providers of Special Circumstances

D. Conducting the Assessment and Inquiry

1. Assessment of Allegations
2. Initiation and Purpose of the Inquiry
3. Sequestration of Research Records
4. Notice to Respondent
5. Appointment of the Inquiry Committee
6. Charge to the Committee and First Meeting
7. Inquiry Process
8. Time for Completion
9. Compensation for Committee Work During the Summer

E. The Inquiry Report

1. Elements of the Inquiry Report
2. Notification to the Respondent and Opportunity to Comment
3. Decision and Notification

F. Conducting the Investigation

1. Initiation and Purpose
2. Notifying Funding Providers and Respondent; Sequestration of Research Records
3. Appointment of the Investigation Committee
4. Charge to the Committee and the First Meeting
5. Investigation Process
6. Time for Completion
7. Compensation for Committee Work During the Summer

G. The Investigation Report

1. Elements of the Investigation Report
2. Comments on the Draft Report and Access to Evidence
3. Determination by Deciding Official
4. Appeals
5. Notice to Funding Providers of the College's Findings and Actions
6. Maintaining Records for Review by Funding Providers

H. Completion of Cases; Reporting Premature Closures to Funding Providers

I. Institutional Administrative Actions

J. Other Considerations

1. Termination or Resignation Prior to Completing Inquiry or Investigation
2. Restoration of the Respondent's Reputation
3. Protection of the Complainant, Witnesses and Committee Members
4. Allegations Not Made in Good Faith

Appendix A: Scholarly Misconduct Policy Timeline

A. Definitions

1. *Advisor* means a faculty member chosen by the respondent to accompany him or her to interviews or meetings on the case. Faculty must sign a confidentiality agreement before serving as an advisor.
2. *Allegation* means a disclosure of possible scholarly misconduct through any means of communication. The disclosure may be made by written or oral statement or other communication to a College official or governmental official.
3. *Complainant* means a person who in good faith makes an allegation of scholarly misconduct.
4. *Deciding Official (DO)* means the Provost/Dean of the College, who makes final determinations on allegations of scholarly misconduct and any College administrative actions. In the event that the Provost/Dean of the College has a conflict of interest, the President will be the Deciding Official.
5. *Evidence* means any document, tangible item, or testimony offered or obtained during a scholarly misconduct proceeding that tends to prove or disprove the existence of an alleged fact.
6. *Funding Provider* means any organization, public, corporate, or private, including the College, or governmental agency or instrumentality, that provides funding or other resources for the support of scholarly activities. Funding support means grants, contracts, or cooperative agreements, or applications thereof.
7. *Good Faith* as applied to a complainant or witness, means having a belief in the truth of one's allegation or testimony that a reasonable person in the complainant's or witness's position could have based on what is known to him or her at the time. An allegation or cooperation with a scholarly misconduct proceeding is not in good faith if it is made with knowing or reckless disregard for information that would negate the allegation or testimony. Good faith as applied to a committee member means cooperating with the scholarly misconduct proceeding by carrying out the duties assigned impartially for the purpose of helping the College meet its responsibilities under the policy and applicable law. A committee member does not act in good faith if his or her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the scholarly misconduct proceeding.
8. *Inquiry* means preliminary information-gathering and preliminary fact-finding in compliance with these procedures.
9. *Institutional Member* means a person who is employed by, is an agent of, or is affiliated by contract or agreement with the College. Institutional members may include, but are not limited to, officials, tenured and untenured faculty, teaching and support staff, researchers, research coordinators, clinical technicians, postdoctoral and other fellows, students, volunteers, agents, and contractors, subcontractors, and sub-awardees, and their employees.
10. *Investigation* means the formal development of a factual record and the examination of that record leading to a decision not to make a finding of scholarly misconduct or to a recommendation for a finding of scholarly misconduct which may include a recommendation for other appropriate actions, including administrative actions.
11. *Person* means any individual, corporation, partnership, institution, association, unit of government, or legal entity, however organized.
12. *Preponderance of the Evidence* means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

13. *Records of Scholarly Misconduct Proceedings* means: (1) the research records and evidence secured for the scholarly misconduct proceeding pursuant to this policy, except to the extent the Research Integrity Officer determines and documents that those records are not relevant to the proceeding or that the records duplicate other records that have been retained; (2) the documentation of the determination of irrelevant or duplicate records; (3) the inquiry report and final documents (not drafts) produced in the course of preparing that report, including the documentation of any decision not to investigate; (4) the investigation report and all records (other than drafts of the report) in support of the report, including the recordings or transcripts of each interview conducted; and (5) the complete record of any appeal within the College from the finding of scholarly misconduct.
14. *Research* means a systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research).
15. *Research Integrity Officer* (RIO) means the Dean of the Faculty associated with the respondent's department, who is responsible for: (1) assessing allegations of scholarly misconduct to determine if they fall within the definition of scholarly misconduct and warrant an inquiry on the basis that the allegation is sufficiently credible and specific so that potential evidence of scholarly misconduct may be identified; and (2) overseeing inquiries and investigations; and (3) the other responsibilities described in this policy.
14. *Respondent* means the person against whom an allegation of scholarly misconduct is directed or who is the subject of a scholarly misconduct proceeding.
15. *Retaliation* means an adverse action taken against a complainant, witness, or committee member by the College or one of its institutional members in response to: (1) a good faith allegation of scholarly misconduct; or (2) good faith cooperation with a scholarly misconduct proceeding.
16. *Scholarly Misconduct* means intentional, knowing, reckless, or irresponsible fabrication, falsification, or plagiarism in proposing, performing, or reviewing research or scholarship, or in reporting research results. *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. *Plagiarism* is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit. Scholarly misconduct does not include honest error or differences of opinion.
17. *Scholarly Misconduct Proceeding* means any actions related to alleged scholarly misconduct, including but not limited to, allegation assessments, inquiries, investigations, funding providers' oversight reviews, hearings and administrative appeals.
18. *Scholarly Record* means the record of data or results that embody the facts resulting from scholarly inquiry, including but not limited to, scholarly proposals, laboratory records, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, books, and any documents and materials, both physical and electronic, and their equivalents in the field of artistic creation, provided by a respondent in the course of the scholarly misconduct proceeding.
19. The *Sponsored Research Officer* (SRO) is the Director of the Office of Sponsored Research.

B. Rights and Responsibilities

1. Research Integrity Officer

The appropriate Dean of the Faculty associated with the respondent's department shall serve as the RIOs. The RIO will have primary responsibility for implementation of the College's policies and procedures on scholarly misconduct and compliance with applicable laws, regulations and other legal obligations with respect thereto, with the assistance of the SRO. The RIO must be sensitive to the varied demands made on those who conduct research, those who are accused of scholarly misconduct, those who make good faith allegations of scholarly misconduct, and those who may serve on inquiry and investigation committees.

The RIO will take all reasonable and practical steps to foster a research environment that promotes the responsible conduct of research and scholarship, training with respect to research and scholarship, and activities related to the research, scholarship and training, discourages scholarly misconduct, and deals promptly with allegations or evidence of possible scholarly misconduct. The RIO will inform institutional members participating in or otherwise involved with sponsored scholarship or research about the College's policy and procedures for responding to allegations of scholarly misconduct and the College's commitment to compliance with that policy and procedure.

The RIO will:

- a. Consult with persons uncertain about whether to submit an allegation of scholarly misconduct;
- b. Receive and respond to each allegation of scholarly misconduct;
- c. Assess each allegation of scholarly misconduct in accordance with Section D.1. of this policy to determine whether it falls within the definition of scholarly misconduct and warrants an inquiry and inform the SRO to enable the SRO to take the steps set forth in Section B.2 below;
- d. Provide confidentiality to all respondents, complainants, and research subjects identifiable from research records or evidence as required by Federal regulation and other applicable laws, and College policy, including Section C.3 below;
- e. Notify the respondent and provide opportunities for him or her to review, provide written comments, or respond to allegations, evidence, and committee reports in accordance with Section C.5. of this policy;
- f. Inform respondents, complainants, and witnesses of the procedural steps in the scholarly misconduct proceeding and provide them with the College's policies and procedures on scholarly misconduct.
- g. Inform the DO of the need to appoint the chair and members of the inquiry and investigation committees. The RIO will make recommendations to the DO in order to ensure that those committees are properly staffed and that there is expertise (which may include the necessity of scientific expertise) appropriate to carry out a thorough, competent, objective and fair evaluation of the evidence;
- h. Determine, in consultation as necessary with the general counsel, whether each person involved in handling an allegation of scholarly misconduct has an unresolved personal, professional, or financial conflict of interest and take appropriate action, including recusal, to ensure that no person with such conflict is involved in the scholarly misconduct proceeding;
- i. In cooperation with other College officials, take all reasonable and practical steps to protect or restore the positions and reputations of good faith complainants, witnesses, and committee members and counter potential or actual retaliation against them by respondents or other institutional members;

- j. Keep the DO and others who need to know apprised of the progress of the review of the allegation of scholarly misconduct.
- k. Take all reasonable and practical steps to ensure the cooperation of respondents and other institutional members with scholarly misconduct proceedings, including, but not limited to, their providing information, research records, and evidence;
- l. Take appropriate interim institutional actions to protect public health, Federal funds and equipment and the integrity of the scholarship or research process as described in C.6 below.

2. Sponsored Research Officer (SRO) will:

- a. Cooperate with and notify and make reports to funding providers as necessary in compliance with applicable law and other legal obligations;
- b. Sequester evidence pertinent to the allegation of scholarly misconduct in accordance with Section E.3. of this policy and maintain it securely in accordance with this policy and applicable law and regulation;
- c. Secure signed confidentiality agreements from witnesses and advisors to the complainants and respondents.
- d. Maintain records of the scholarly misconduct proceeding and make them available to funding providers in accordance with Section G.6. of this policy.
- e. Return sequestered materials to normal use as soon as is practical in accordance with the record keeping requirements of this policy.
- f. Make reasonable effort to ensure that administrative actions taken by the College and funding providers are enforced and take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, and licensing boards of those actions

3. Complainant

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation. As a matter of good practice, the RIO shall provide the complainant with the College's policies and procedures on scholarly misconduct. The complainant must be interviewed during an investigation, and be given the transcript or recording of the interview for correction. The RIO may notify the complainant who made the allegation whether the inquiry found that an investigation is warranted and may provide relevant portions of the report to the complainant for comment.

4. Respondent

The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation. The respondent is entitled to:

- a. A good faith effort from the RIO to notify the respondent in writing at the time of or before beginning an inquiry, and each such notification shall include the College's policies and procedures on scholarly misconduct. If the inquiry subsequently identifies additional respondents, the RIO must notify them as well;
- b. An opportunity to comment on the inquiry report and have his or her comments attached to the report;
- c. Notification of the outcome of the inquiry, and receipt of a copy of the inquiry report and a copy or reference to relevant regulations and this policy and these procedures;
- d. Notification in writing of the allegations to be investigated within a reasonable time after the determination that an investigation is warranted, but before the investigation

begins (within 30 days after the College decides to begin an investigation), and notification in writing of any new allegations not addressed in the inquiry or in the initial notice of investigation, within a reasonable time after the determination to pursue those allegations;

- e. Be interviewed during the investigation, have the opportunity to correct the recording or transcript, and have the corrected recording or transcript included in the record of the investigation;
- f. An interview during the investigation of any witness who has been reasonably identified by the respondent as having information on relevant aspects of the investigation, have the recording or transcript provided to the witness for correction, and have the corrected recording or transcript included in the record of investigation; and
- g. Receipt of a copy of the draft investigation report and, concurrently, a copy of, or reasonable, supervised access to the evidence on which the report is based, and be notified that any comments must be submitted within 30 days of the date on which the copy was received and that the comments will be considered by the College and addressed in the final report.
- h. The respondent should be given the opportunity to admit that scholarly misconduct occurred and that he or she committed the scholarly misconduct. With the advice of the RIO and the College's legal counsel and with consideration of requirements that may exist when external funding is involved, the DO may terminate the College's review of an allegation that has been admitted. An admission of misconduct by the respondent does not preclude the College's right to invoke sanctions. See Section H below.
- i. The respondent will have the opportunity to request an appeal as described below. See Chapter III of the Statutes of the Faculty, "Subcommittee on Appeals to Scholarly Misconduct Policy Decisions" and Chapter VII of the Statutes of the Faculty, "Dismissal of Members of Teaching Faculty for Cause," for cases involving dismissal from the College.

5. Deciding Official

The DO will receive the inquiry report and, after consulting with the RIO, decide whether an investigation is warranted. Any finding that an investigation is warranted must be made in writing by the DO and must be given to funding providers as required, together with a copy of the inquiry report.

The DO will receive the investigation report and, after consulting with the RIO and other appropriate officials, decide the extent to which the College accepts the findings of the investigation and, if scholarly misconduct is found, decide what, if any, administrative actions are appropriate. If the administrative action is dismissal, the DO makes such a recommendation to the Provost/Dean of the College. The DO shall ensure that the final investigation report, the findings of the DO and a description of any pending or completed administrative action are given to funding providers, as required and as facilitated by the SRO.

At the conclusion of the inquiry and of the investigation, if it is warranted, the DO, RIO and SRO will ensure that detailed documentation of the proceedings is retained for at least 7 years after the termination of the proceedings.

C. General Policies and Principles

1. Responsibility to Report Scholarly Misconduct

All institutional members have a responsibility to report observed, suspected, apparent,

or alleged scholarly misconduct to the RIO, or, in exceptional circumstances, to the College's General Counsel. If an individual is unsure whether a suspected incident falls within the definition of scholarly misconduct, he or she may meet with or contact the RIO to discuss the suspected scholarly misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of scholarly misconduct, the RIO may refer the individual or allegation to other offices or officials with responsibility for resolving the problem.

At any time, an institutional member may have confidential discussions and consultations about concerns of possible misconduct with the RIO or SRO and will be counseled about appropriate procedures for reporting allegations.

2. Cooperation with Scholarly Misconduct Proceedings

Institutional members will cooperate with the RIO and other College officials in the review of allegations and the conduct of inquiries and investigations. Institutional members, including respondents, have an obligation to provide evidence relevant to scholarly misconduct allegations to the RIO, SRO, or other College officials. Individuals who fail to cooperate with the scholarly misconduct proceedings, which includes but is not limited to providing evidence and testimony, may be judged as being in violation of their job or contractual duties.

3. Confidentiality

The RIO and SRO shall (1) limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair scholarly misconduct proceeding and as allowed by law; (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a scholarly misconduct proceeding. The RIO and SRO should use written confidentiality agreements or other mechanisms to ensure that an individual does not disclose any information received during scholarly misconduct proceedings. The College may choose to provide confidentiality for witnesses when the circumstances indicate that the witnesses may be harassed or otherwise need protection. The RIO and SRO shall secure confidentiality of meetings, communications, and reports.

4. Protecting Complainants, Witnesses, and Committee Members

Institutional members may not retaliate in any way against complainants, witnesses, or committee members. Institutional members should immediately report any alleged or apparent retaliation against complainants, witnesses or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed in accordance with Section J.3 below.

5. Protecting the Respondent

During the scholarly misconduct proceeding, the RIO, with assistance of the SRO, is responsible for ensuring that respondents receive all the notices and opportunities provided for in the College's policies and procedures. Respondents may consult with legal counsel or personal advisers who are not principals or witnesses in the case to seek advice, provided the counsel and advisors sign a confidentiality statement provided by the RIO. The respondent may not bring legal counsel to any interview or meeting on the case. However, the respondent may bring a personal advisor to interviews or meetings. The personal advisor may confer with the respondent during the interview or

meeting but may not address others present. The College will take action to restore the reputation of a respondent against whom no finding of scholarly misconduct is found in accordance with Section J.2.

6. Interim Administrative Actions and Notifying Funding Providers of Special Circumstances

Throughout the scholarly misconduct proceeding, the RIO, in consultation with the SRO, will review the situation to determine if there is any threat of harm to public health, misuse of federal funds and equipment, or violation of the integrity of the supported research process.

In the event of such a threat, the RIO will, in consultation with the SRO, other College officials and funding providers, take appropriate interim action to protect against any such threat. Interim action might include additional monitoring of the research process and the handling of funds and equipment, reassignment of personnel or of the responsibility for the handling of funds and equipment, additional review of research data and results or delaying publication of scholarly findings. The SRO shall, at any time during a scholarly misconduct proceeding, notify funding providers immediately if he or she (or the RIO) has reason to believe that any of the following conditions exist:

- a. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;
- b. Their resources or interests are threatened;
- c. Research activities should be suspended;
- d. There is a reasonable indication of possible violations of civil or criminal law;
- e. Action by a funding provider is required to protect the interests of those involved in the scholarly misconduct proceeding;
- f. The scholarly misconduct proceeding may be made public prematurely and funding provider action may be necessary to safeguard evidence and protect the rights of those involved; or
- g. The scholarly community or public should be informed.

D. Conducting the Assessment and Inquiry

1. Assessment of Allegations

Upon receiving an allegation of scholarly misconduct, the RIO will immediately assess the allegation to determine whether it is sufficiently credible and specific so that potential evidence of scholarly misconduct may be identified.

The assessment period should be brief, preferably concluded within a week. In conducting the assessment, the RIO need not interview the complainant, respondent, or other witnesses, or gather evidence beyond any data 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 scholarly misconduct may be identified.

2. Initiation and Purpose of the Inquiry

If the RIO determines that the criteria for an inquiry are met, he or she will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all the evidence related to the allegation.

3. Sequestration of Research Records. On or before the date on which the respondent is notified of the allegation, or the inquiry begins, whichever is earlier, the RIO, with the assistance of the SRO, must take all reasonable and practical steps to obtain custody of

all the research records and evidence needed to conduct the scholarly misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that when 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. In addition, the RIO, with the assistance of the SRO, must undertake all reasonable and practical efforts to take custody of any additional research records or evidence which is discovered in the course of the scholarly misconduct proceeding, except that when 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. The RIO, with the assistance of the SRO, may consult with funding providers for advice and assistance in either regard.

4. Notice to Respondent

At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, the RIO must make a good faith effort to notify them in writing.

5. Appointment of the Inquiry Committee

The RIO, after consultation with other College officials as appropriate, will make recommendations to the DO, who will appoint three tenured faculty members to an inquiry committee and designate one member as chair within 10 days of the initiation of the inquiry or as soon thereafter as practical. The inquiry committee must consist of individuals who have no personal, professional, or financial conflicts of interest with the respondent, complainant or known witnesses and should include tenured faculty members with the appropriate expertise to evaluate the evidence and issues related to the allegation, interview the respondent, complainant and relevant witnesses, and conduct the inquiry. Members of the inquiry committee are required to notify the RIO of any potential conflict of interest within three days of appointment.

As soon as the inquiry committee has been selected, the RIO shall notify the respondent and the complainant of the membership of the committee. Within three days of this notification, the respondent and the complainant may request removal of members of the committee or the DO on grounds of personal, professional, or financial conflict of interest. Requests for removal must be submitted in writing to the RIO setting forth the details of such potential conflict of interest. The RIO will determine, in his/her sole discretion, whether or not there is a personal, professional or financial conflict of interest necessitating the removal of any members of the committee. Within three working days of receiving requests for removal of members of the committee, the RIO shall notify the respondent and the complainant of his or her decision and of the names of any new committee members who have been appointed. The respondent and the complainant shall then have the right to request removal of the newly appointed committee members and the RIO shall notify them of his/her decision, following the above procedures.

If at any point during the proceedings of the inquiry committee a member of the committee or the DO is discovered to have a conflict of interest, the committee member and/or DO shall be replaced by the above procedures. If the RIO judges the conflict of interest to have irreparably compromised the proceedings of the committee, the RIO shall disband the committee and restart the inquiry process.

6. Charge to the Committee and First Meeting

The RIO, with assistance from the SRO, will prepare a charge for the inquiry committee

that:

- a. Sets forth the name and position of respondent;
- b. Sets forth the time for completion of the inquiry;
- c. Describes the allegations and any related issues identified during the allegation assessment;
- d. States that the purpose of the inquiry is to conduct an initial review of the evidence, including the testimony of the respondent, complainant and key witnesses, to determine whether an investigation is warranted, but not to determine whether scholarly misconduct definitely occurred or who was responsible;
- e. States that an investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the alleged misconduct falls within the definition of scholarly misconduct; and, (2) any allegation may have substance, based on the committee's review during the inquiry.
- f. Informs the inquiry committee that they are responsible for preparing or directing the preparation of a written report of the inquiry that meets the requirements of this policy.

At the committee's first meeting, the RIO will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by the committee. The RIO and the SRO will be present or available throughout the inquiry to advise the committee as needed. In addition, if the committee wishes to consult with the General Counsel of the College or the SRO, the RIO shall make such arrangements with General Counsel or SRO as are necessary for the committee to carry out its duties.

7. Inquiry Process

The inquiry committee will normally interview the complainant, the respondent and key witnesses as well as examine relevant research records and materials. The inquiry committee will then evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether an investigation is warranted based on the criteria set forth in 5.e above. The scope of the inquiry should not conclude whether misconduct occurred nor determine who committed the scholarly misconduct. An inquiry does not require a full review of all available evidence or exhaustive interviews and analyses. If the respondent admits scholarly misconduct in writing, scholarly misconduct may be determined at the inquiry stage if all relevant issues are resolved (if permitted under applicable law and legal requirements; in that case, the College shall promptly consult with the General Counsel and any relevant funding providers to determine if additional steps should be taken).

8. Time for Completion

The inquiry, including preparation of the final inquiry report and the decision of the DO on whether an investigation is warranted, must be completed within 60 calendar days of initiation of the inquiry, unless the RIO determines that circumstances clearly warrant a longer period. If the RIO approves an extension, the RIO must document in the inquiry record the reasons for exceeding the 60-day period. The RIO will notify the respondent of the extension.

9. Compensation for Committee Work During the Summer

When an inquiry committee that has been convened in accordance with this Policy must meet between Commencement in one academic year and the Mass of the Holy Spirit in

the following academic year in order to fulfill its responsibilities as defined herein, committee members (other than any committee member who holds a twelve-month position with the College) shall be entitled to receive additional compensation for their inquiry committee service and for travel expenses. The level of such compensation shall be determined by the Provost/Dean of the College and the members of the committee and may cover time devoted to preparation for meetings as well as time devoted to the meetings themselves.

E. The Inquiry Report

1. Elements of the Inquiry Report

A written inquiry report must be prepared that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of scholarly misconduct; (3) information on funding sources, including, for example, grant numbers, grant applications, contracts and publications listing support; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent and/or complainant. The inquiry report must include: the names and titles of the committee members who conducted the inquiry and, if appropriate, experts who were consulted during the inquiry; a copy of this policy and these procedures; a list of the research records and evidence reviewed; transcripts or recordings of any interviews; and copies of all relevant documents; charges for the investigation to consider, if any; whether any other actions should be taken if an investigation is not recommended; any other special circumstances.

The General Counsel should review the report. Modifications should be made as appropriate in consultation with the RIO, SRO, and the inquiry committee.

2. Notification to the Respondent and Opportunity to Comment

The RIO shall notify the respondent and the complainant whether the inquiry committee found an investigation to be warranted, include a copy of the draft inquiry report for comment within 10 days. Any comments that are submitted will be attached to the final inquiry report by the chair of the inquiry committee. Based on the comments, the inquiry committee may revise the draft report as appropriate and prepare it in final form. The committee will deliver the final report to the RIO. The RIO will transmit the final inquiry report and any comments to the complainant and the respondent.

3. Decision and Notification

a. Determination by Deciding Official

The RIO will transmit the final inquiry report and any comments to the DO, who will determine in writing, normally within 10 working days, whether an investigation is warranted. The inquiry is completed when the DO makes this determination.

b. Notification to Funding Providers

If necessary, the SRO will give funding providers the DO's written decision and a copy of the inquiry report within 30 calendar days of the DO's decision that an investigation is warranted. The RIO will notify those College officials who need to know of the DO's decision. The SRO must give the following information to funding providers upon request: (1) the College's policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and (3) the charges to be considered in the investigation.

c. Documentation of Decision Not to Investigate

If the DO decides that an investigation is not warranted, the DO and SRO shall secure and maintain for 7 years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by funding providers of the reasons why an investigation was not conducted. Upon request, these documents must be given to funding providers or other authorized parties as determined by the RIO and/or SRO.

F. Conducting the Investigation

1. Initiation and Purpose

The investigation must begin within 30 calendar days after the determination by the DO that an investigation is warranted. The purpose of the investigation is to develop a factual record by exploring the allegations in detail and examining the evidence in depth, leading to findings on whether scholarly misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible scholarly misconduct that would justify broadening the scope beyond the initial allegations. The findings of the investigation will be set forth in an investigation report.

- ### 2. Sequestration of Research Records.
- The RIO will, prior to notifying the respondent of the allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the scholarly misconduct proceeding that were not previously sequestered during the inquiry. When 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. The need for additional sequestration of records for the investigation may occur for any number of reasons, including the College's 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. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

3. Notifying Respondent;

On or before the date on which the investigation begins, the RIO must notify the respondent in writing of the allegations to be investigated. The RIO must also give the respondent written notice of any new allegations of scholarly misconduct within a reasonable amount of time of deciding to pursue allegations not addressed during the inquiry or in the initial notice of the investigation. Funding providers are notified in accordance with Section E.3.b. above.

3. Appointment of the Investigation Committee

The RIO, after consultation with other College officials as appropriate, will make recommendations to the DO, who will appoint five tenured faculty members to an investigation committee and designate one member as chair within 10 days of the initiation of the investigation or as soon thereafter as practical. The investigation committee must consist of individuals who have no personal, professional, or financial conflicts of interest those involved with the investigation and should include individuals with the appropriate expertise (including, as necessary, appropriate scientific expertise) to evaluate the evidence and issues related to the allegation, interview the respondent and complainant and conduct the investigation. Normally, individuals appointed to the investigation committee will not have served on the inquiry committee. Members of the investigation committee are required to notify the RIO of any potential conflict of interest within three days of appointment.

As soon as the investigation committee has been selected, the RIO shall notify the respondent and the complainant of the membership of the committee. Within three working days of this notification, the respondent and the complainant may request removal of members of the committee or the DO on grounds of bias or personal, professional or financial conflict of interest.

Requests for removal must be submitted in writing to the RIO setting forth the details of the potential conflict of interest. The RIO will determine, in his/her sole discretion, whether or not there is a personal, professional or financial conflict of interest necessitating the removal of any members of the committee. Within three working days of receiving requests for removal of members of the committee, the RIO shall notify the respondent and the complainant of his or her decision and of the names of any new committee members who have been appointed. The respondent and the complainant shall then have the right to request removal of the newly appointed committee members, following the procedures defined here. At his or her discretion, the RIO may, upon a written request from the respondent or complainant, allow the respondent or complainant additional time to request the removal of members of the committee. The RIO shall notify both the respondent and complainant if such written request is granted to either the respondent or the complainant.

If at any point during the proceedings of the investigation committee a member of the committee or the DO is discovered to have a conflict of interest, the committee member and/or the DO shall be replaced by the above procedures. If the RIO judges the conflict of interest to have irreparably compromised the proceedings of the committee, the RIO shall disband the committee and restart the investigation process.

4. Charge to the Committee and the First Meeting

a. Charge to the Committee

The RIO, with assistance of the SRO, will define the subject matter of the investigation in a written charge to the committee that:

- i. Describes the specific allegations of scholarly misconduct for consideration in the investigation;
- ii. Identifies the respondent;
- iii. Informs the committee that it must conduct the investigation as prescribed in paragraph 5. of this section;
- iv. Provides the definition of scholarly misconduct and other relevant definitions;
- v. Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, scholarly misconduct occurred and, if so, the type and extent of it and who was responsible;
- vi. Informs the committee that in order to determine that the respondent committed scholarly misconduct it must find that a preponderance of the evidence establishes that: (1) scholarly misconduct, as defined in this policy, occurred (respondent has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the scholarly misconduct is a significant departure from accepted practices of the relevant scholarly community; and (3) the respondent committed the scholarly misconduct intentionally, knowingly, recklessly or irresponsibly; and
- vii. Informs the committee that it must prepare or direct the preparation of a written investigation report that meets the requirements of this policy.

b. First Meeting

The RIO will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be

provided with a copy of this policy and any applicable funding provider policies. The RIO and SRO will be present or available throughout the investigation to advise the committee as needed. In addition, if the committee wishes to consult with the SRO or General Counsel of the College, the RIO shall make such arrangements with the SRO or General Counsel as are necessary for the committee to carry out its duties.

5. Investigation Process

The investigation committee must:

- a. Use diligent efforts to ensure that the investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation;
- b. Take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practical;
- 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 record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the recording or transcript in the record of the investigation; and
- d. Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of any additional instances of possible scholarly misconduct, and continue the investigation to completion.

6. Time for Completion

The investigation is to be completed within 120 days of beginning it, including conducting the investigation, preparing the report of findings, providing the draft report for comment and sending the final report to any funding providers involved and to the DO. However, if the RIO determines that the investigation will not be completed within this 120-day period, he or she will submit to any funding providers involved a written request for an extension as required, setting forth the reasons for the delay. If the funding providers grant the request for an extension, the RIO will ensure that periodic progress reports are filed with the funding providers. If there are no external funding providers, the RIO may extend the investigation on his or her own. The RIO must notify the respondent and complainant of any such extension.

7. Compensation for Committee Work During the Summer

When an investigation committee that has been convened in accordance with this Policy must meet between Commencement in one academic year and the Mass of the Holy Spirit in the following academic year in order to fulfill its responsibilities as defined herein, committee members (other than those committee members who hold twelve-month positions) shall be entitled to receive additional compensation for their services and for travel expenses. The level of such compensation shall be determined by the Provost/Dean of the College in consultation with the members of the committee and may cover time devoted to preparation for meetings as well as time devoted to the meetings themselves.

G. The Investigation Report

1. Elements of the Investigation Report

Under the direction of the RIO, the investigation committee is responsible for preparing a written draft report of the investigation that:

- a. Describes the nature of the allegation of scholarly misconduct, including identification

of the respondent;

- b. Describes and documents the funding sources, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing support;
- c. Describes the specific allegations of scholarly misconduct considered in the investigation;
- d. Includes the College's policies and procedures under which the investigation was conducted;
- e. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and
- f. Includes a statement of findings for each allegation of scholarly misconduct identified during the investigation. Each statement of findings must identify whether the scholarly misconduct did or did not occur and if it did occur, (1) identify whether it was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, irresponsibly or in reckless disregard; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by the respondent to establish by a preponderance of the evidence that he or she did not engage in scholarly misconduct because of honest error or a difference of opinion; (3) identify the specific funding support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the respondent has pending.

2. Comments on the Draft Report and Access to Evidence

a. Respondent

The RIO must give the respondent 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 30 days from the date he or she receives the draft report to submit written comments to the RIO on the draft investigation report. The respondent's comments must be included and considered in the final report.

b. Complainant

On a case-by-case basis, the RIO may provide the complainant a copy of the draft investigation report, or relevant portions of it, for comment. The complainant's comments must be submitted within 30 days of the date on which he or she receives the draft report and the comments must be included and considered in the final report.

c. Confidentiality

In distributing the draft report, or portions thereof, to the respondent, and if applicable, to the complainant, the RIO will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may require that the recipient sign a confidentiality agreement.

3. Determination by Deciding Official

The RIO and SRO will assist the investigation committee in finalizing the draft investigation report, including ensuring that the respondent's and, when applicable, the complainant's comments are included and considered, and transmit the final

investigation committee report to the DO, who will determine in writing, normally within 10 working days: (1) whether the College accepts the investigation report, its findings, and the recommended actions; and (2) the appropriate actions in response to the accepted findings of scholarly misconduct. If this determination varies from the findings of the investigation committee, the DO will, as part of his or her written determination, explain in detail the basis for rendering a decision different from the findings of the investigation committee. Alternatively, the DO may return the report to the investigation committee with a request for further fact-finding or analysis.

When a final decision on the case has been reached, the RIO will normally notify both the respondent and the complainant in writing. After the SRO informs funding providers, the DO will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The SRO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

4. Appeals

The respondent who has been found responsible for scholarly misconduct and received a sanction that is not dismissal can appeal the decision and the sanction to the Committee on Appeals to Scholarly Misconduct Policy Decisions. The procedures for this committee are specified in Chapter III of the Statutes of the Faculty. An appeal must be completed within 120 days of its filing, unless funding providers find good cause for an extension, based upon the College's written request for it that explains the need for the extension. If funding providers grant an extension, they may request the filing of periodic progress reports.

The President of the College shall take the findings and recommendations of the committee into consideration in making a final determination. The President, on recommendation of the committee, may lessen the sanction or direct the case to the RIO in order to address procedural errors in the hearing process. The President is not bound by the recommendations of the Committee on Appeals to Scholarly Misconduct Decisions in making this determination.

If the sanction is dismissal, the procedures specified in Chapter VII of the Statutes of the Faculty, "Dismissal of Members of Teaching Faculty for Cause," shall be followed.

5. Notice to Funding Providers of the College's Findings and Actions

Unless an extension has been granted, the SRO must, within the 120-day period for completing the investigation or the 120-day period for completion of any appeal, submit the following to funding providers: (1) a copy of the final investigation report with all attachments and a complete record of any appeal; (2) a statement of whether the College accepts the findings of the investigation report or the outcome of the appeal; (3) a statement of whether the College found scholarly misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the respondent.

6. Maintaining Records for Review by Funding Providers

The SRO must maintain and give to funding providers upon request records of scholarly misconduct proceedings. Unless funding providers have advised in writing that the records no longer need to be retained, records of scholarly misconduct proceedings must be maintained in a secure manner for 7 years after completion of the proceeding or the completion of any funding provider proceeding involving the scholarly misconduct allegation. The SRO is also responsible for providing any information, documentation, research records, evidence or clarification requested by funding providers to carry out its

review of an allegation of scholarly misconduct or of the College's handling of such an allegation.

H. Completion of Cases; Reporting Premature Closures to Funding Providers

Generally, all inquiries and investigations will be carried through to completion and all significant issues will be pursued diligently. The SRO must notify funding providers in advance if there are plans to close a case at the inquiry, investigation, or appeal stage on the basis that the respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except: (1) closing of a case at the inquiry stage on the basis that an investigation is not warranted; or (2) a finding of no misconduct at the investigation stage, which must be reported to funding providers. In accordance with applicable law, funding providers may approve the closure of the case, direct the College to complete its process or take other compliance action permitted by law.

I. Institutional Administrative Actions

If the DO determines that scholarly misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken, after consultation with the RIO and the SRO. The administrative actions may include:

1. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where scholarly misconduct was found;
2. Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment, which would be determined by the Provost/Dean of the College;
3. Restitution of funds to the funding provider as appropriate; and
4. Other action appropriate to the misconduct, including, but not limited to, civil or criminal legal action where appropriate.

J. Other Considerations

1. Termination or Resignation Prior to Completing Inquiry or Investigation

The termination of the respondent's employment, by resignation or otherwise, before or after an allegation of possible scholarly misconduct has been reported, will not preclude or terminate the scholarly misconduct proceeding or otherwise limit any of the College's responsibilities to funding providers.

If the respondent, without admitting to the misconduct, elects to resign his or her position after the College receives an allegation of scholarly misconduct, the assessment of the allegation will proceed, as well as the inquiry and investigation, as appropriate based on the outcome of the preceding steps. If the respondent refuses to participate in the process after resignation, the RIO and any inquiry or investigation committee will use their best efforts to reach a conclusion concerning the allegations, noting in the report the respondent's failure to cooperate and its effect on the evidence.

2. Restoration of the Respondent's Reputation

After a determination of no finding of scholarly misconduct, including funding provider concurrence where required by regulations, the RIO will, with the consent of the respondent and with the approval of the DO, undertake all reasonable and practical efforts to restore the respondent's reputation. Depending on the particular circumstances and the views of the respondent, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in any forum in which the allegation of scholarly misconduct was

previously publicized, and expunging all reference to the scholarly misconduct allegation from the respondent's personnel file.

3. Protection of the Complainant, Witnesses and Committee Members

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

4. Allegations Not Made in Good Faith

If relevant, the DO will determine whether the complainant's allegations of scholarly misconduct were made in good faith, or whether a witness or committee member acted in good faith. Absence of good faith will be interpreted by the College as constituting a violation of the Faculty Information Manual. If the DO determines that there was an absence of good faith he or she will determine whether any administrative action should be taken against the person who failed to act in good faith.

Appendix A: Scholarly Misconduct Policy Timeline

If all stages of a case of scholarly misconduct take the maximum amount of time allowed by the policy, then the final decision of the appeal committee should be rendered within 13 months from the date of the beginning of the inquiry. The following timeline gives the maximum number of days for each stage of the process. At his or her discretion, the RIO may extend the time period allowed for any step in the process with the agreement of the complainant, the respondent, the relevant committee, and, as necessary, any funding agencies that provided support for the scholarship in question. If an appeal is successful, the President may, at his discretion, direct that all or portions of the investigation process be repeated. The time period allowed by the policy for each step would normally be that given in the policy. However, the RIO may, in consultation with the chair of the investigation committee and the concurrence of the complainant, specify a period of less than 120 days for the completion of the new investigation.

- Step 1: Assessment. The RIO must assess any allegation of scholarly misconduct immediately upon its receipt. Normally, the RIO shall decide to conduct an inquiry within 7 days of receiving the allegation.
- Step 2: Inquiry. The inquiry is initiated by notification of the respondent and sequestering of materials. The inquiry stage of the process is normally completed within 60 days from the date it is initiated. This includes up to 10 days for the appointment of the inquiry committee, 10 days for the respondent and complainant to respond to a draft of the inquiry report, and 10 days for the DO to make a determination of whether an investigation is warranted.
- Step 3: Investigation. The investigation must begin within 30 days of the determination by the DO that an investigation is warranted. The investigation stage of the process is normally completed within 120 days from the date it is initiated. The RIO must notify respondent and any funding agencies involved in the scholarship before the investigation begins. At this time, the RIO must also sequester any additional materials needed for this investigation. This includes up to 10 days for the appointment of the inquiry committee and 30 days for the respondent and complainant to respond to a draft of the inquiry report.
- Step 4: Determination by the DO. Normally the DO will make a determination of whether to accept the investigation report, its findings, and recommendations within 10 days of the receipt of the report.
- Step 5: Appeal. The respondent has 30 days to file an appeal for a sanction less than dismissal and 10 days to file an appeal of a sanction of dismissal. The appeal is normally completed within 120 days from the date it is filed.
- Step 6: The President's Decision. The policy does not specify any period of time in which the President must render a decision on an appeal.

Forms:

Title
Title

Related Information:

Title Scholarly Misconduct Policy Timeline
Title

Policy # 220000-003
Date of Last Review Sep-18-2018