

## 1. BACKGROUND/PURPOSE

- 1.01 The integrity of the research process is an essential aspect of a University's intellectual and social structure. Research is defined as all research, scholarly, and creative activity that supports the intellectual endeavors of the University. Although incidents of misconduct in research may be rare, those that do occur threaten the entire research enterprise.
- 1.02 The integrity of the research process must depend largely upon self-regulation. Formalization of the rights and responsibilities underlying scientific method is imperative in the research process. The University is responsible both for promoting academic practices that prevent misconduct and for developing policies and procedures for dealing with allegations or other evidence of fraud or serious misconduct. All members of the University community--students, staff, faculty, and administrators--share responsibility for developing and maintaining standards to assure ethical conduct of research and detection of abuse of these standards. This policy applies to any person paid by, under the control of, or affiliated with the University, such as scientists, trainees, technicians, and other staff members, students, fellows, guest researchers, or collaborators.
- 1.03 In dealing with ethical conduct issues, it is important to create an atmosphere that encourages openness and creativity. Good and innovative research cannot flourish in an atmosphere of oppressive regulation. Moreover, it is particularly important to distinguish misconduct in research and scholarship from the honest error and the ambiguities of interpretation that are inherent in the scientific process and are normally corrected by further research. The policy and procedures outlined below apply to all persons paid by, under the control of, or affiliated with the University, such as scientists, trainees, technicians and other staff members, students, fellows, guest researchers, or collaborators. This policy is not intended to address all academic issues of an ethical nature. For example, discrimination and affirmative action are covered by other University policies. This policy has been written to comply with the requirements of the Office of Research Integrity (ORI), Office of Public Health and Science (PHS), Department of Health and Human Services (DHHS). These requirements are detailed in 42 C.F.R. Part 50, Subpart A, entitled "Responsibility of PHS Awardees and Applicant Institutions for Dealing With and Reporting Possible Misconduct in Science." Portions of

this policy have been excerpted from the sample policy available at <http://ori.dhhs.gov/models.htm>.

## 2. ETHICAL CONDUCT IN ACADEMIC RESEARCH AND SCHOLARSHIP

- 2.01 The primary means to encourage appropriate conduct in research and scholarship at the University is to promote and maintain a climate consistent with high ethical standards. To reduce the likelihood of misconduct in research and scholarship, the University community should facilitate the following:
- a. Encouragement of intellectual honesty. Given the importance of a climate of intellectual honesty in a University community, a commitment to the ethical responsibilities of academia by all of its practitioners is essential. We must emphasize the importance of such common practices as submission of work to peer review, avoidance of conflict of interest, scholarly exchange of ideas and data, and self-regulation. Mentor relationships between academic leaders and new practitioners serve to assure the transmission of ethical standards.
  - b. Assurance that quality of research is emphasized.
  - c. Acceptance of responsibility by research supervisors. University policies must define a locus of responsibility for the conduct of research and must ensure that the individual(s) charged with the supervision of researchers can realistically execute the responsibility. These supervisors of research should be experienced academicians who serve as mentors in transmitting the ethics and responsibilities underlying scientific and humanistic research. The larger the research team, the more critical the role of the supervisor in promoting open communication and scholarly exchange of ideas, data, and results. It is also the responsibility of the supervisor to encourage publication of as much primary data as possible.
  - d. Establishment of well defined research procedures. Well-designed and strictly adhered to research methods are a deterrent to fraud. Bias in data analysis and interpretation will be avoided by following practices common to the disciplines.

- e. Appropriate assignment of credit and responsibility. Publications should recognize the contributions of others through adequate citation and/or acknowledgment. Publications should also name as authors only those who have had a genuine role in the research and who accept responsibility for the quality of the work being reported.

### 3. DEFINITIONS

- 3.01 “Misconduct in research and scholarship” means any form of behavior that entails an act of deception whereby one's work or the work of others is misrepresented. Other terms, such as research fraud or scientific misconduct, are subsumed within the term as defined. Misconduct in research and scholarship is distinguished from honest error and from ambiguities of interpretation that are inherent in the scientific process. The principal element of misconduct in research and scholarship is the intent to deceive others or to misrepresent one's work. Misconduct involves significant breaches of integrity that may take numerous forms such as, but not limited to, those outlined below:
  - a. Falsification or fabrication of data: Ranging from fabrication to deceptive selective reporting of findings and omission of conflicting data, or willful suppression and/or distortion of data with the intent to falsify results.
  - b. Plagiarism: The misappropriation of the written work of another and its misrepresentation as one's own original work.
  - c. Improprieties of authorship: Improper assignment of credit, such as excluding other authors; inclusion of individuals as authors who have not made a definite contribution to the work published; or submission of multiauthored publications without the knowledge of all authors.
  - d. Misappropriation of the ideas of others: The unauthorized use of privileged information (such as violation of confidentiality in peer review) however obtained.

- e. Violation of generally accepted research practices: Deceptive practices in proposing, conducting, or reporting research. For NSF-funded awards, this definition is expanded to include all activities funded by the NSF, not just research activities.
  - f. Material failure to comply with governmental requirements affecting research: Including but not limited to serious, substantial, or repeated, willful violations involving the use of funds, care of animals, human subjects, investigatory drugs, recombinant products, new devices, radiation, or radioactive, biologic, or chemical materials.
  - g. Inappropriate behavior in relation to misconduct: Including unjust and malicious accusation(s) of misconduct; failure to report misconduct; withholding or destruction of information relevant to a claim of misconduct in research and scholarship; or retaliation against persons who have not acted in bad faith in the allegation or investigation of misconduct in research and scholarship.
- 3.02 “Inquiry” means information-gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants an investigation.
- 3.03 “Investigation” means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred and, if so, to determine the responsible person and the degree of the misconduct.
- 3.04 Members of the University community: All faculty, staff, administrators, and students, both full- and part-time, who are affiliated with Sam Houston State University.
- 3.05 Respondent: An individual against whom an allegation(s) of scientific misconduct is made or the person whose actions are the subject of the inquiry or investigation. There can be more than one Respondent in any inquiry or investigation. Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the Respondent(s) in the inquiry or investigation and confidentiality to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry or investigation. Institutional employees accused of scientific misconduct may consult with

legal counsel or a non-lawyer personal advisor (who is not a principal or witness in the case) to seek advice and may bring the counsel or personal advisor to interviews or meetings on the case.

- 3.06 Allegation: Any written or oral statement or other indication of possible scientific misconduct made to an institutional official.
- 3.07 Conflict of interest: A real or apparent interference of one person's interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships.
- 3.08 Good faith allegation: An allegation made with the honest belief that scientific misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.
- 3.09 Research record: Any data, document, computer file, computer diskette, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of scientific misconduct. A research record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.
- 3.10 *Retaliation* means any action that adversely affects the employment or other institutional status of an individual that is taken by an institution or an employee because the individual has in good faith made an allegation of scientific misconduct or of inadequate institutional response thereto or has cooperated in good faith with an investigation of such allegation.
- 3.11 *Whistleblower* means a person who makes an allegation of scientific misconduct. The Provost and Vice President for Academic Affairs will monitor the treatment of individuals who bring allegations of misconduct or of inadequate institutional response thereto and those who cooperate in inquiries

or investigations. The Research Integrity Officer will ensure that these persons will not be retaliated against in the terms and conditions of their employment or other status at the institution and will review instances of alleged retaliation for appropriate action. Employees should immediately report any alleged or apparent retaliation to the Provost and Vice President for Academic Affairs. Also the institution will protect the privacy of those who report misconduct in good faith to the maximum extent possible. For example, if the Whistleblower requests anonymity, the institution will make an effort to honor the request during the allegation assessment or inquiry within applicable policies and regulations and state and local laws, if any. The Whistleblower will be advised that if the matter is referred to an investigation committee and the Whistleblower's testimony is required, anonymity may no longer be guaranteed. The University will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations.

#### 4. POLICY

- 4.01 Misconduct in research and scholarship is inappropriate behavior by members of the University community. Allegations of misconduct in research and scholarship will be handled according to the policy and procedures included herein.
- 4.02 Allegations of misconduct against students will be handled according to policies in Guidelines, the student handbook, with the following modifications: if a student against whom an allegation is lodged is supported in any fashion with University funds (i.e., any funds paid by the University to a student for the activity in question), the allegation must be reported to the Provost and Vice President for Academic Affairs, who will make the decision whether the process used to handle the allegation is through the student handbook process for students or the requirements of this policy.
- 4.03 The imperatives that guide this institutional review process for dealing with allegations of misconduct in research and scholarship are the following:
  - a. The process used will not damage science or scholarship.

- b. The University will provide vigorous leadership in the pursuit and resolution of all charges.
- c. The principles of due process will be observed and the University will treat all parties with justice and fairness and be sensitive to their reputations and vulnerabilities.
- d. The procedures will preserve the highest attainable degree of confidentiality compatible with an effective and efficient examination of available facts.
- e. The integrity of the process will be maintained by painstaking avoidance of real or apparent conflict of interest.
- f. The procedure will be as expeditious as possible leading to the resolution of allegations in a timely manner.
- g. The University will document the pertinent facts and actions at each stage of the process.
- h. The University will pursue allegations within the scope of this policy without regard to whether related civil or criminal proceedings have been initiated or are underway. The University may, at its option, suspend inquiry/investigation temporarily but is not under obligation to do so, as the standards of the University may differ from those of the courts. However, if reasonable indication of criminal activity is found, ORI will be notified within 24 hours. At any point in the process where evidence is found about immediate health hazards, the need to protect federal funds or equipment and individuals affected by the inquiry, or that the alleged incident will likely be publicly reported, ORI and research sponsors will be notified.
- i. Even if the Respondent leaves or has left the University before the case is resolved, the University will pursue an allegation of misconduct to its conclusion.

## 5. PROCEDURES

### 5.01 Introduction

The several stages of the review process are discussed in detail in the remainder of this document.

### 5.02 Initiation of an Allegation of Misconduct

- a. Initial allegations, in writing, may be reported to any faculty member or administrator of Sam Houston State University. All such allegations must be reported within one working day to the Provost and Vice President for Academic Affairs. All employees or individuals associated with the University should report observed, suspected, or apparent misconduct in science to the Provost and Vice President for Academic Affairs. If an individual is unsure whether a suspected incident falls within the definition of scientific misconduct, he or she may call the Provost and Vice President for Academic Affairs at 294-1001 to discuss the suspected misconduct informally. If the circumstances described by the individual do not meet the definition of scientific misconduct, the Provost and Vice President for Academic Affairs will refer the individual or allegation to other offices or officials with responsibility for resolving the problem. If the Provost and Vice President for Academic Affairs has a possible conflict of interest, the allegations will be referred to the President of the University and the President will designate another individual to fill the role of the Provost and Vice President for Academic Affairs for purposes of this policy for that particular case.
- b. The Provost and Vice President for Academic Affairs shall informally review any allegation of misconduct in research and scholarship and determine whether the allegation warrants initiation of the inquiry process according to the policies and procedures for misconduct in research and scholarship, or whether other policies and procedures, such as those relevant to employment grievances, should be invoked. The Provost and Vice President for Academic Affairs will counsel the individual(s) bringing the allegations as to the policies and procedures to be used. If after this counsel the Whistleblower chooses to pursue the allegations, the process will proceed. Should the Whistleblower(s) then choose not to

make a formal allegation, but the Provost and Vice President for Academic Affairs believes that reasonable suspicion exists to warrant an inquiry, the inquiry process will be initiated.

- c. The Provost and Vice President for Academic Affairs shall, within fifteen working days of receipt of an allegation, complete the initial review and decide whether to call for a Committee of Inquiry. Under extenuating circumstances, the Provost and Vice President for Academic Affairs may extend this review time to thirty working days. The Respondent shall be notified of this decision within five working days of a decision to proceed with the inquiry.
- d. The Provost and Vice President for Academic Affairs shall expeditiously take appropriate interim administrative actions to protect federal funds and ensure that the purposes of the federal financial assistance are carried out.

### 5.03 Inquiry

#### a. Purpose

Whenever a warranted allegation or complaint involving the possibility of misconduct is made, the Provost and Vice President for Academic Affairs will initiate an inquiry--the second step of the review process. In the inquiry stage, factual information is gathered and expeditiously reviewed to determine if an investigation of the charge is warranted. An inquiry is designed to separate allegations deserving of further investigation from frivolous, unjustified, or clearly mistaken allegations.

#### b. Structure

1. The Provost and Vice President for Academic Affairs will, after a decision to proceed with an inquiry and after consultation with the Associate Vice President for Research and Graduate Studies, appoint an Inquiry Committee of no less than three persons. At least two members will be tenured faculty at the rank of associate or full professor who are without conflict of interest, hold no appointment in the department(s) of either the Whistleblower(s) or the Respondent(s) of the decision to proceed with a formal inquiry, and have appropriate

expertise for evaluating the information relevant to the case. One member may not be associated with Sam Houston State University. Every effort will be made following initial administrative review of the allegation to appoint a Committee of Inquiry within fifteen working days, but the Committee must be appointed within thirty working days.

2. At its first meeting, the Committee will elect a chair to handle procedural and administrative matters. The Provost and Vice President for Academic Affairs will prepare a charge for the Inquiry Committee that describes the allegations and any related issues identified during the allegation assessment and states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the Respondent, Whistleblower, and key witnesses to determine whether there is sufficient evidence of possible scientific misconduct to warrant an investigation. The purpose is not to determine whether scientific misconduct definitely occurred or who was responsible. All Committee members are voting members.
3. Records of the inquiry are confidential and are to be passed on to a Committee of Investigation if formal review is initiated. In any case, the records should be kept secure, and if no misconduct is found, the records should be destroyed three years after completion of an inquiry. Making the records public without authorization is grounds for a charge of misconduct. At the option of the Committee, proceedings will be either tape-recorded or transcribed and will be made available to involved parties upon request.
4. The inquiry phase will be completed within sixty calendar days of its initiation unless the Committee determines that circumstances clearly warrant a longer period. In such circumstances, the Committee will advise the Provost and Vice President for Academic Affairs who will advise all relevant parties. The record of the inquiry will include documentation for exceeding the sixty-day period.
5. As the inquiry is informal and intended to be expeditious, principals are expected to speak for themselves. All individuals may be accompanied by a representative for advice and counsel.

c. Process

1. The Provost and Vice President for Academic Affairs is responsible for notifying all parties in writing of the allegations and of the procedures that will be used to examine the allegations. Further, all parties will be informed of the proposed membership of the Committee of Inquiry for the purpose of identifying in advance any real or potential conflict of interest.
2. Where the Whistleblower seeks anonymity, the Committee of Inquiry shall operate in such a way as to maintain the anonymity to the degree compatible with accomplishing the fact finding purpose of the inquiry. Such anonymity cannot, however, be assured. Further anonymity of the Whistleblower is neither desirable nor appropriate where the testimony or witness of the Whistleblower is important to the substantiation of the allegations.
3. Information, expert opinions, records, and other pertinent data may be requested by the Committee. All involved individuals are obliged to cooperate with the Committee of Inquiry by supplying such requested documents and information.
4. As the University is responsible for protecting the health and safety of research subjects, students, and staff, expenditure of federal funds, and to ensure that the purposes of the federal financial assistance are carried out, interim administrative action prior to conclusion of the investigation may be indicated. The Provost and Vice President for Academic Affairs, if indicated, initiates such action ranging from slight restrictions to complete suspension of Respondent and notification of external sponsors.
5. During the inquiry, access to copies of all documents reviewed by the Committee will be assured to all parties. All materials will be considered confidential and shared only with those with a need to know. During the inquiry, the Provost and Vice President for Academic Affairs and the members of the Committee of Inquiry are responsible for the security of relevant documents. Copies of all

documents and related communications are to be securely maintained in the Office of the Provost and Vice President for Academic Affairs.

6. All parties to the inquiry, including the Committee of Inquiry itself, shall have the opportunity to present evidence and to interview witnesses.

d. Findings

1. The completion of an inquiry is marked by a determination by the President of the University whether or not an investigation is warranted. The Committee shall find no misconduct unless a majority of the members conclude, based on the preponderance of evidence for each allegation, that the allegation(s) has sufficient merit to call for an investigation. The outcome of the Committee of Inquiry will be conveyed in writing as an Inquiry Report to the Provost and Vice President for Academic Affairs, who will be responsible for communication of the findings to the Respondent and to the President within ten working days. The written Inquiry Report must be prepared that states the name and title of the Committee members and experts, if any; the allegations; the research support; a summary of the inquiry process used; a list of the research records reviewed; summaries of any interviews; a description of the evidence in sufficient detail to demonstrate whether an investigation is warranted or not; and the Committee's determination as to whether an investigation is recommended and whether any other actions should be taken if an investigation is not recommended. Institutional counsel will review the report for legal sufficiency. The Respondent shall be given the opportunity to comment in writing upon the findings and recommendations of the Committee. If the Respondent chooses to comment, such comments shall be forwarded to the Provost and Vice President for Academic Affairs as soon as possible, but must be forwarded within ten working days.

2. If the outcome of the inquiry indicates a need for formal investigation, the Committee will communicate its finding to the Provost and Vice President for Academic Affairs who then, after notification to the appropriate dean(s), legal counsel, and the President, and upon receiving instructions from the President, will initiate the investigatory process. Under certain circumstances, as defined by the applicable federal regulations, the institution may be expected to notify the sponsoring agency, the funding source, and/or the ORI at a point prior to the initiation of an investigation. Factors used to determine the timing of such notification include the following: (a) there is an immediate health hazard involved; (b) there is an immediate need to protect federal funds or equipment; (c) there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is (are) the subject of the allegations as well as his/her co-investigators and associates, if any; or (d) it is probable that the alleged incident is going to be reported publicly. If at any point during the process there is a reasonable indication of possible criminal violation, then such notification will be made to agency, sponsor, and ORI within 24 hours.
3. If an allegation is found to be unsupported but has been submitted in good faith, no further action, other than informing all involved parties, will be taken. The proceedings of an inquiry, including the identity of the Respondent, will be held in strict confidence to protect the parties involved. The University will take reasonable steps to minimize the damage to reputations that may result from inaccurate reports. The University will undertake diligent efforts to protect the position(s) and reputation(s) of good faith Whistleblowers as well as falsely accused Respondents.
4. If the Committee finds the allegations to be unjust and malicious, the Committee will report those findings to the Provost and Vice President for Academic Affairs. At this time the Provost and Vice President for Academic Affairs may take such actions, or impose such sanctions, as are appropriate to the situation. The University will undertake diligent efforts to protect and restore the position(s) and reputation(s) of falsely accused Respondents when allegations are not confirmed.

5. If the University plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of this policy, the Provost and Vice President for Academic Affairs will submit a report of the planned termination to ORI, including a description of the reasons for the proposed termination.
6. After completion of a case and all ensuing related actions, the Provost and Vice President for Academic Affairs will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the Provost and Vice President for Academic Affairs or committees. The Provost and Vice President for Academic Affairs will keep the file for three years after completion of the case to permit later assessment of the case. ORI or other authorized DHHS personnel will be given access to the records upon request.

#### 5.04 Investigation and Determination

##### a. Purpose

An investigation will be initiated when an inquiry issues a finding that investigation is warranted. The purpose of investigation is to explore the allegations further and determine whether misconduct in research and scholarship has been committed. The investigation will focus on accusations of misconduct as defined previously and examine the factual materials of each case. In the course of an investigation, additional information may emerge that justifies broadening the scope of the investigation beyond the initial allegations. The Respondent will be informed in writing when significant new directions of investigation are undertaken.

##### b. Structure

1. The Provost and Vice President for Academic Affairs will, after a decision to proceed with a formal investigation, and after consultation with the Associate Vice President for Research and Graduate Studies, appoint an Investigating Committee of no less than three persons. At least two members will be senior faculty who are without conflict of

interest, hold no appointment in the department(s) of either the Whistleblower(s) or the Respondent(s), and have appropriate expertise for evaluating the information relevant to the case. At least one member shall not be associated with Sam Houston State University. No member of the Committee of Inquiry shall serve on the Investigating Committee. Every effort will be made following receipt of the report of the Committee of Inquiry to appoint an Investigating Committee within fifteen working days, but the Committee must be appointed and investigation initiated within thirty working days of the determination of the need for an investigation.

2. On or before the date an investigation begins, the Provost and Vice President for Academic Affairs will report that fact in writing to ORI. At a minimum, the notification should include the name of the Respondent(s), the general nature of the allegation as it relates to the definition of scientific misconduct, and any PHS applications or grant numbers involved. ORI must also be informed of the final outcome of the investigation, and must be provided with a copy of the Investigation Report. Any significant variations from the provisions of the institutional policies and procedures should be explained in any reports submitted to ORI.
3. At its first meeting, the Committee will elect a chair to handle procedural and administrative matters. The Provost and Vice President for Academic Affairs will prepare a charge for the Investigating Committee that describes the allegations and any related issues identified during the Inquiry, define scientific misconduct, and identify the name of the Respondent. The charge will state that the Committee is to evaluate the evidence and testimony of the Respondent, Whistleblower, and key witnesses to determine whether based on a preponderance of the evidence, scientific misconduct occurred and, if so, to what extent, who was responsible, and its seriousness. The Provost and Vice President for Academic Affairs, with the assistance of institutional counsel, will 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. All Committee members are voting members.

4. Hearings are confidential and may be declared closed by request of any of the principals. Written notification of hearing dates and copies of all relevant documents will be provided by the Provost and Vice President for Academic Affairs in advance of scheduled meetings. At the option of the Committee, proceedings will be either tape-recorded or transcribed and will be made available to involved parties upon request. During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional Respondents, the committee will notify the Provost and Vice President for Academic Affairs, who will determine whether it is necessary to notify the Respondent of the new subject matter or to provide notice to additional Respondents.
5. Every effort should be made to complete the investigation within 120 days. However, it is acknowledged that some cases may render this time period difficult to meet. In such cases, the Investigating Committee should compile a progress report, identify reasons for the delay and notify the Provost and Vice President for Academic Affairs of the additional time necessary for the investigation. Such request for extension should be initiated not later than 100 days after commencement of the investigation. The Provost and Vice President for Academic Affairs shall convey to the funding agency and ORI an extension request including an explanation for the delay, an interim report on the progress to date, an outline of what remains to be done, and an estimated date of completion.
6. Both the principals and the Investigating Committee may discuss the issues personally, have a representative act in his/her behalf, or have a representative accompany him/her.

#### 5.05 Process

- a. The Provost and Vice President for Academic Affairs is responsible for notifying all parties in writing of the allegations and of the procedures that will be used to examine the allegations. Further, all parties will be informed of the proposed membership of the Committee of Investigation

for the purpose of identifying in advance any real or potential conflict of interest.

- b. All parties to the case, including the Investigating Committee, may present evidence and call and examine or cross-examine witnesses. The investigation normally will include examination of all documentation, including, but not necessarily limited to, relevant research data and proposals, computer files, manuscripts, publications, correspondence, memoranda, and notes of telephone calls. The Committee will make every effort to interview all individuals involved either in making the allegation or against whom the allegation is made, as well as other individuals who might have information regarding key aspects of the allegation(s). Complete summaries of these interviews will be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file. Additional hearings may be held and the Committee may request the involvement of outside experts. The investigation must be sufficiently thorough to permit the Committee to reach a decision about the validity of the allegation(s) and the scope of the wrongdoing or to be sure that further investigation is not likely to alter an inconclusive result. In addition to making a judgment on the veracity of the charges, the Committee may recommend to the Provost and Vice President for Academic Affairs appropriate sanctions, if warranted.
- c. As the University is responsible for protecting the health and safety of research subjects, students, and staff, expenditure of federal funds, and to ensure that the purposes of the federal financial assistance are carried out, interim administrative action prior to conclusion of the investigation may be indicated. If required, such action (ranging from slight restrictions to complete suspension of Respondent and notification of external sponsors) is initiated by the Provost and Vice President for Academic Affairs. Under certain circumstances, as defined by the applicable federal regulations, the institution may be expected to notify the sponsoring agency, the funding source, and/or the ORI at a point prior to the initiation of an investigation the following events occur: (a) there is an immediate health hazard involved; (b) there is an immediate need to protect federal funds or equipment; (c) there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is (are) the subject of the allegations as well as his/her co-investigators and

associates, if any; or (d) it is probable that the alleged incident is going to be reported publicly. If at any point during the process there is a reasonable indication of possible criminal violation, then such notification will be made to agency, sponsor, and ORI within 24 hours.

- d. The Provost and Vice President for Academic Affairs will promptly advise ORI of any developments during the course of the investigation which disclose facts that may affect current or potential DHHS funding for individual(s) under investigation or that the PHS needs to know to ensure appropriate use of federal funds and otherwise protect the public interest.
- e. All parties in the investigation are encouraged to cooperate by producing any additional data requested for the investigation. Copies of all materials secured by the Committee shall be provided to the Respondent and may be provided to other concerned parties as judged appropriate by the Committee.
- f. The Respondent shall have an opportunity to address the charges and evidence in detail, and will have an opportunity to respond to the Investigation Report.
- g. After all evidence has been received and completed, the Investigating Committee shall meet in closed sessions to deliberate and prepare its findings and recommendations. The Committee shall find no academic misconduct unless a majority of the members conclude upon a preponderance of evidence that the allegation(s) have been substantiated.
- h. All significant developments during the investigation as well as the findings and recommendations of the Committee will be reported by the Provost and Vice President for Academic Affairs to the research sponsor and/or ORI, if appropriate.
- i. If the University plans to terminate an investigation for any reason without completing all relevant requirements of this policy, the Provost and Vice President for Academic Affairs will submit a report of the planned termination to ORI, including a description of the reasons for the proposed termination.

- j. After completion of a case and all ensuing related actions, the Provost and Vice President for Academic Affairs will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the Provost and Vice President for Academic Affairs or committees. The Provost and Vice President for Academic Affairs will keep the file for three years after completion of the case to permit later assessment of the case. ORI or other authorized DHHS personnel will be given access to the records upon request.

#### 5.06 Findings

- a. Upon completion of the investigation, the Committee will submit to the Provost and Vice President for Academic Affairs a full written report that details the Committee's findings and recommendations. The report shall describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, the basis for the findings, and include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, as well as a description of any sanctions taken by the University. The Committee's findings are binding upon the institution subject to appeal by the Respondent. The Respondent shall have a period of ten days in which to comment on the Investigation Report.
- b. The Provost and Vice President for Academic Affairs should also send this report to the Respondent within ten days of its receipt.

#### 5.07 Resolution

- a. Finding of Absence of Academic Misconduct

All parties initially informed of the investigation will be informed in writing that allegations of misconduct were not supported. If the allegations are deemed to have been maliciously motivated, the Committee will report those findings to the Provost and Vice President for Academic Affairs. If the allegations, however incorrect, are deemed to have been made in good faith, no additional measures are indicated and

efforts will be made to prevent retaliatory actions. In publicizing the finding of no misconduct, the University will be guided by whether public announcements will be harmful or beneficial in restoring any reputation(s) that may have been damaged. Usually such decision will rest with the person who was innocently accused. The University will undertake diligent efforts to protect and restore the position(s) and reputation(s) of falsely accused Respondent(s) when allegation(s) are not confirmed. The University will undertake diligent efforts to protect the position(s) and reputation(s) of good faith Whistleblower(s) as well as falsely accused Respondent(s).

b. Presence of Academic Misconduct

The Provost and Vice President for Academic Affairs shall consider the recommendations of the Committee and shall be responsible for determining and implementing sanctions. The Respondent shall be notified in writing of any recommended sanctions within ten days. If the sanctions involve a recommendation for termination of employment, the University academic termination procedures will be invoked. The University must take action appropriate for the seriousness of the misconduct, including, but not limited to, one or more of the following:

1. Institutional Disciplinary Action including:
  - Removal from a particular project
  - Special monitoring of future work
  - Letter of reprimand
  - Probation for specified period with conditions specified
  - Suspension of rights and responsibilities for a specified period, with or without salary
  - Financial restitution
  - Termination of employment/enrollment

2. Notification. The Provost and Vice President for Academic Affairs is responsible for notification of the outcome to all parties or other entities initially informed of the investigation. Consideration should be given to formal notification of involved parties such as:
  - Sponsoring agencies, funding sources, ORI
  - Co-authors, co-investigators, collaborators, department, University publications
  - Editors of journal(s) in which fraudulent research was published
  - State professional licensing boards
  - Editors of journals or other publications, other institutions, sponsoring agencies, and funding sources with which the individual has been affiliated
  - Professional societies
3. Sanctions shall not be imposed during the appellate process
4. Upon completion of the investigation, the Provost and Vice President for Academic Affairs will submit to ORI a full written report that details the Committee's findings and recommendations. The report shall describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings, and include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, as well as a description of any sanctions taken by the University.

## 6. APPEAL

Individuals may appeal the judgment of the Investigating Committee and/or the sanction. A written statement of the grounds for the appeal must be submitted to the President of Sam Houston State University within thirty days of written notification of the sanctions. Grounds for appeal include, but are not limited to, new previously unconsidered material evidence, sanctions not commensurate with the findings, and lapses in due process. Upon receipt of a written appeal, the President will evaluate the evidence and make a determination. The President shall reopen the investigation if the previously unconsidered material evidence so warrants and may reopen the investigation if circumstances so dictate. The President's decision will be binding on all parties and will be conveyed to all involved in a timely fashion, but must be

conveyed within thirty working days. In the case of termination, the President's decision may be appealed to The Texas State University System Board of Regents. All evidence, as well as the record of the proceedings, will be made available to that Board.

APPROVED: \_\_\_\_\_ /signed/  
James F. Gaertner, President

DATED: \_\_\_\_\_ 11/03/04

### CERTIFICATION STATEMENT

This academic policy statement (APS) has been approved by the reviewer(s) listed below and represents Sam Houston State University's Division of Academic Affairs' APS from the date of this document until superseded.

Original Date: August 8, 1992  
Reviewer(s): Academic Policy Council

Review Cycle: August, ENY\*  
Review Date: August 1, 2006

Approved: \_\_\_\_\_ /signed/

Date: \_\_\_\_\_ 11/01/04

David E. Payne  
Provost and Vice President  
for Academic Affairs

\*ENY = Even Numbered Year