

# **Research Policies**



## Centers and Institutes

[This policy responds to paragraph 6 of Board of Regents Policy IV--1.00, "Policy for the Establishment and Review of Centers and Institutes in the University System of Maryland."]

Definition: A center or institute at Frostburg State University is generally an organized, non-departmental unit that focuses on an aspect of teaching, research, and/or public service. It may or may not be funded by the state through the University or by external sources. A center or institute usually has a formal administrative structure headed by a director.

### I. Procedure for Establishing a Center or Institute

#### A. Application Procedure.

1. To establish a center or institute at Frostburg State University (FSU), the applicant (s) must submit a memo containing the following information to the Provost:
  - a. Rationale and need for the center or institute;
  - b. Mission of the center or institute, inclusive of its intellectual agenda;
  - c. Compatibility with the mission of the University;
  - d. Proposed activities of the center or institute;
  - e. Relationship to academic programs;
  - f. Relationship to similar efforts elsewhere in the USM;
  - g. Departments or other units involved, and lines of reporting;
  - h. Personnel involved and space required (University and external);
  - i. Total resources involved (including identification of sources of financial support, start-up costs, long-term costs, assigned time, administrative costs, etc.);
  - j. Procedures and criteria with which the proposed center or institute will be reviewed and evaluated; and
  - k. Other relevant information.
2. Memos of support and approval from associated department chairs and college deans must accompany the application. Each supporting document must include, at minimum, (a.) assessments of the value of the proposed center or institute and (b.) the financial impact of its establishment on the resources of the department(s) or college(s).

#### B. Application Review Procedure.

1. The Office of the Provost first will evaluate the application according to the following criteria:
  - a. Need for the center or institute;
  - b. Benefits and costs to the University community;
  - c. Congruence with University mission.
2. Upon the completion of the initial review, the Provost will forward the proposal to the Academic Affairs Committee for appropriate action within the FSU governance system.

C. Preexisting Centers and Institutes at FSU. Centers and Institutes that are in existence prior to the date of official approval of this policy by the Chancellor of the University System of Maryland do not have to apply for re-establishment. They are, however, subject to the review procedures covered in Section II.

II. Procedure for the Periodic Review of Centers and Institutes at FSU

A. Annual Reporting. The directors of FSU Centers and Institutes, beginning Academic Year 1994-1995, are required to submit academic year reports to the Office of the Provost, due June 30. These reports will include the following information:

1. Identification information--Name of center or institute, name(s) of director(s), associated department(s) and college(s), and mission statement;
2. Major activities conducted during academic year;
3. Expenditures for academic year, including funds from internal and external sources;
4. Deployment of faculty/administrative resources and associated costs to University;
5. Evaluative summary of how the center or institute achieved its mission and goals during year and how it benefited the University.

The annual reports submitted by FSU centers and institutes will be reviewed annually by the Provost or a designee of the Provost for issues of urgency and kept on file in the Office of the Provost for fuller consultation during the 5-year or 7-year review process.

B. Review Cycle. Every five years, each FSU center and institute that receives funding from the State of Maryland or outside sources will be reviewed. Centers and institutes that receive no funding will be reviewed every seven years. The procedure in each circumstance will be as follows:

1. The Provost will form a special evaluation committee for each center or institute, consisting of the dean(s) of the associated college(s), a representative from the Office of the Provost, and a representative from a department not associated with the center or institute or the college to which the center or institute is attached.
2. The committee, during the fifth or seventh year academic year, will examine the annual reports that have been submitted previously by the center or institute director(s), along with any other relevant information. They will also conduct interviews with the director(s) and other appropriate people to obtain additional information.
3. Based on the information at their disposal, the evaluation committee will recommend one of the following actions:
  - a. maintenance of the center or institute in its current state;
  - b. a change in the definition, operations, and/or leadership of the center or institute;

- c. termination of the center or institute
  - d. initiation of a broader-scale review of the center or institute, with the final outcome one of a, b, or c.
4. The criteria that the committee will use to arrive at their recommendation are as follows:
    - a. Need for the center or institute;
    - b. Benefits and costs to the University community;
    - c. Congruence with University mission;
    - d. Effectiveness of leadership.
  5. The committee will forward its recommendation to the Provost, who in consultation with the President of the University, will arrive at a determination of action.
  6. The Office of the Provost will forward notice of the determination of action to the director(s) of the center or institute, with copies to the associated chair(s) and dean(s), no later than September 1 of the sixth or eighth year as appropriate.
  7. The five-year and seven-year review cycles will have a staggered start, starting with the first group of evaluations at the end of Academic Year 1996-1997.

**Policy and Procedures for Identification and Management of Conflict of Interest For  
PHS/NSF Sponsored Activities**

*Supplement to Procedures on Conflicts of Interest in Research or Development*

I. General

Effective October 1, 1995 all proposals and renewal applications being submitted to the Public Health Service (PHS) (including all its Institutes) or the National Science Foundation (NSF) are required to include a certification by Frostburg State University authorizing official that Frostburg State University has implemented and is enforcing a written policy on conflicts of interest. In addition to existing University System of Maryland and Frostburg State University policies on professional commitment of faculty, outside consultancy, and conflict of interest, the following policy and procedures apply to actual or potential conflicts of interest arising from activities sponsored by PHS and NSF. These federal agencies have promulgated regulations, which require:

- (1) investigators to disclose certain financial interests;
- (2) institutional review of these disclosures;
- (3) designation of a person(s) to review the disclosures, identify conflicting interests, and take actions necessary to ensure that such conflicting interests will be managed, reduced or eliminated;

- (4) arrangements for informing (a) the NSF of conflicts that are not resolved to the satisfaction of Frostburg State University and (b) the PHS of all conflicts reported, resolved or not; and
- (5) record retention procedures.

Subcontract and collaborators must either comply with Frostburg State University's policy or provide assurance to Frostburg State University that they comply with their own policies that meet the PHS and/or NSF requirements, as applicable.

## II. Definitions

- A. "Investigator" means the principal investigator, co-principal investigator(s), and any other person employed by or working under the auspices of Frostburg State University who has independent responsibility for the design, conduct, or reporting of research or educational activities funded or proposed for funding by PHS or NSF. (This may include persons working under the Principal Investigator.) These individuals are those who have independent responsibility for accomplishing project objectives. For purposes of the requirements relating to financial interests, "investigator" includes the investigator's spouse and dependent children.
- B. "Significant financial interest" means anything of monetary value, including but not limited to salary or other payments for services (e.g., consulting fees or honoraria); equity interests (e.g. stocks, stock options, or other ownership interests); and intellectual property rights (e.g. patents, copyrights, and royalties from such rights). The term does not include:
  - (1) salary, royalties, or other remuneration from Frostburg State University;
  - (2) income from seminars, lectures, or teaching engagements sponsored by public or nonprofit entities;
  - (3) income from service on advisory committee or review panels for public or nonprofit entities;
  - (4) an equity interest that when aggregated for the investigator and the investigator's spouse and dependent children, meets both of the following tests: (a) does not exceed \$10,000 in value as determined through reference to public prices or other reasonable measures of fair market value, and (b) does not represent more than a 5% ownership interest in any single entity, or
  - (5) salary, royalties, or other payments that, when aggregated for the investigator and the investigator's spouse and dependent children, are not expected to exceed \$10, 000 during the next twelve month period.
- C. "Conflict of interest" means, for the purpose of these procedures, any significant financial interest of the investigator and the investigator's spouse and dependent children that could directly and significantly affect the design, conduct, or reporting of PHS or NSF funded research, as reasonably determined by Frostburg State University.

- D. "Reportable Significant Financial Interest" means a Significant Financial Interest (i) that would reasonably appear to be affected by the research and educational activities funded or proposed for funding by PHS or NSF or (ii) in entities whose financial interests would reasonably appear to be affected by such activities.
- A. "Research" means a systematic investigation designed to develop or contribute to generalizable knowledge relating broadly to public health, including behavioral and social-sciences research. The term encompasses, for example, basic and applied research, product evaluation, testing, development, and clinical trials. As used in these Procedures, the term includes any such activity for which research funding is available from a component of the PHS through a grant or cooperative agreement, whether authorized under the PHS Act or other statutory authority, and any such activity for which research funding or any educational activity is available from the NSF.

### III. Disclosure Requirements

- A. An investigator seeking or holding PHS or NSF funding must disclose any reportable significant financial interest.
- B. An investigator seeking PHS or NSF funding who has no reportable significant financial interest to disclose must so indicate by checking the appropriate statement and signing the Proposal Routing and Approval Form which accompanies the proposal.
- C. An investigator seeking PHS or NSF funding who has a reportable significant financial interest to disclose must so indicate on the Proposal Routing and Approval Form and must complete the "Investigator Financial Disclosure Statement for PHS/NSF Proposals" (Appendix 1). This form and any supporting documentation must be submitted with (or in advance of) the proposal.
- D. All disclosures must be updated during the period of the award on an annual basis or as new reportable significant financial interests are obtained by completing and routing the Update/Annual Certification Form for PHS/NSF Sponsored Activities (Appendix 2). Each investigator must complete this form.

### IV. Institutional Review Process

- A. The investigator's academic supervisor is responsible for conducting the initial review of disclosures submitted by investigator(s) within that supervisor's academic unit. An investigator's academic supervisor is: the department chair or the dean (if the investigator is a department chair). The academic supervisor, subject to Frostburg State University's review and final decision, will determine what reportable significant interests are conflicts of interest (as defined above) and what mechanisms are appropriate for managing, reducing, or eliminating real or potential conflicts of interests. Examples of conditions or restrictions that might be imposed include:
- public disclosure of significant financial interest
  - monitoring of research by independent reviewers
  - modification of the research plan

- disqualification from participation in the portion of funded research that could be affected by the significant financial interests
  - divestiture of significant financial interests
  - severance of relationships that create actual or potential conflicts.
- B.1 Disclosure of conflicts and the resolution or plan for resolution shall be forwarded from the academic supervisor, through intermediate supervisors as required, to the academic dean. Following action by the dean, the disclosure and resolution or plan for resolution shall be forwarded to the Director of Research and Sponsored Programs.
- B.2 Should a reportable significant financial interest or a conflict of interest resulting from a reportable significant financial interest remain unrecognized through the proposal routing process, the office that recognizes the conflict will contact the Director of Research and Sponsored Programs. The Director will contact the investigator for additional information.
- C. If the Director finds that a disclosure of a reportable significant financial interest has revealed a conflict of interest that is unresolved after the initial review(s) and the subsequent review of the academic dean, or if the Director finds that a recommended plan for resolution is inconsistent with Frostburg State University guidelines, the Director will forward the matter to the Frostburg State University's Faculty Grievance Committee for consideration. The Committee will examine the matter and make its recommendations to the Provost, who will make a decision on behalf of Frostburg State University. A faculty member dissatisfied with the Provost's final action may appeal to Frostburg State University's President, who, at their discretion, may reconsider the matter for Frostburg State University.
- D. Proposals will not be forwarded to PHS or NSF by Frostburg State University until the conflict of interest review process has reached the level of the Director of Research and Sponsored Programs. A proposal may be forwarded to PHS or NSF by Frostburg State University before the review process is completed, but (1) no funds can be spent for the project until the process is completed, and (2) the proposal will be withdrawn if it is determined that an identified conflict of interest cannot be eliminated or managed. If a proposal has been forwarded on the expectation that an approved plan for resolution of conflict of interest will be implemented, the identified conflict must be satisfactorily managed, reduced or eliminated prior to Frostburg State University expenditure of any funds under the award for the project affected. If the conflict cannot be satisfactorily resolved, the grant proposal may be withdrawn or the award declined.
- E. For on-going projects, conflicts disclosed subsequent to Frostburg State University's initial report to PHS or NSF under an award must be resolved, at least on an interim basis, within sixty (60) days after that identification of the potential conflict by Frostburg State University.
- V. Reporting Procedures and Record Retention
- A. The Director of Research and Sponsored Programs is responsible for providing the appropriate written notice to the awarding agency. Conflicts which cannot be satisfactorily resolved must be disclosed to PHS and NSF. In the case of PHS awards, notice must be given for all conflicts of interest.

- B. The Director of Research and Sponsored Programs will maintain records of all financial disclosures and of all actions taken to resolve actual or potential conflicts of interest at least three (3) years after termination or completion of the sponsored project or after resolution of any government action involving those records, whichever is longer.
- C. As required by federal agency regulations, information regarding all conflicts of interest identified to or by Frostburg State University will be made available to the federal government upon request.

The NSF Office of General Counsel will be appropriately informed if Frostburg State University finds that it is unable to satisfactorily manage a Conflict of Interest related to NSF reported research.

#### VI. Compliance

- A. Non-compliance could result in the termination of the sponsored activity and/or restrictions on the individual with respect to proposal submissions as well as other appropriate sanctions that would be provided by University of Maryland System and Frostburg State University policies and procedures, the Maryland Public Ethics Law, and federal laws and regulations.
- B. If the failure of an Investigator to comply with Frostburg State University conflict of interest policy has biased the design, conduct, or reporting of the PHS-funded research, Frostburg State University must promptly notify the PHS Awarding Component of the corrective action taken or to be taken. The PHS Awarding Component will consider the situation and, as necessary, take appropriate action or refer the matter to Frostburg State University for further action, which may include directions to Frostburg State University on how to maintain appropriate objectivity in the funded project.

#### VII. Confidentiality

Information submitted by investigators with respect to reportable, significant financial interest and/or identified conflicts of interest shall be treated as personal information under the Maryland Access to Public Records Law, and shall be disclosed by Frostburg State University only as permitted by State law or otherwise required by law or court order. This limitation shall not apply to information which is required to be disclosed as part of the steps to manage a potential or actual conflict of interest.

### **FSU Procedures on Conflict of Interest in Research or Development**

#### I. General

Frostburg State University supports programs to foster economic development in the state and region and programs for commercializing and transferring university-produced technology to the private sector and providing campus affiliations to emerging private high-technology firms. Confidence and trust is eroded, however, when state and university business is subject to improper influence. The Maryland Public Ethics Law establishes certain conditions under which officials and employees may have relationships with entities involved with research or development.

Outside activities of an official or employee must not interfere with the primary commitment to the mission of the university. The Board of Regents of the University System of Maryland has enacted a Policy on Professional Commitment of Faculty (BOR II 3.10), which addresses external commitments and general conflict of interest concerns for its faculty. In addition, the Board of Regents had enacted a

Policy on Conflicts of Interest in Research or Development (BOR II- 1.11), which allows officials and employees to have certain relationships with businesses involved in research or development, provided certain conditions are met consistent with the Maryland Public Ethics Law.

These procedures implement the System Policy of Conflicts of Interest, and apply to situations where an official or employees seek to hold an interest in, serve as an employee, director, or officer of, or maintain any other relationship (as defined herein) with an entity which:

- A. Is engaged in or participates in research of development; or
- B. Has a direct interest in the outcome of research or development.

Neither these procedures, nor the statute and System policy under which they have been adopted, exempt any official or employee of the System from any provision of the Public Ethics Law except as specifically provided in System's policy and these procedures.

## II. General Procedure

- A. An official or employee of Frostburg State University may have an interest in or serve as an employee, director, or officer of or maintain any other relationship (as defined herein) with an entity engaged in research or development, or an entity having a direct interest in the outcome of research or development if:
  - 1. The interest, service, employment, or other relationship is disclosed on a form filed with the Director of Research and Sponsored Programs and maintained as a public record in the Office of Contracts and Grants. A copy of the form must also be filed with the State Ethics Commissions. An annual report shall also be required for any interest, service, employment or other relationship that lasts more than a year.
  - 2. The relationship will not give improper advantage to the entity with which the relationship exists, lead to misuse of institution students or employees for the benefit of such entities, or otherwise interfere with the duties and responsibilities of the official or employee maintaining the relationship.
  - 3. The interest will not constitute a harmful interest as defined in these procedures or otherwise present an unacceptable conflict of interest.
  - 4. The interest, service, employment, or other relationship with the entity is approved by the Frostburg State University President in accordance with these procedures.

- B. If the requirements of these procedures are not met, the official or employee is not exempt from any of the provisions of the Ethics Law. Approvals granted under these procedures do not affect the application of other University System of Maryland and Frostburg State University policies, including Policies on Patents, Copyrights, and Professional Commitment of Faculty, or the obligation to adhere to the provisions of the Maryland Public Ethics Law relating to prohibited gifts. Notwithstanding any approval under these procedures, an official or employee may not (1) represent a party for contingent compensation in any matter before the System's Board of Regents or the State's Board of Public Works, or (2) intentionally misuse his or her position for personal gain or for the gain of another person.

### III. Specific Procedures and Guidelines

#### A. Request and Disclosure Provision

1. Each official or employee who proposes to hold a relationship pursuant to these procedures is required to fill out the Research or Development Interest Form at the time approval of the relationship is requested, at such time(s) as the circumstances of the faculty member concerning the interest change, and annually beginning one year from the date of the initial approval under these procedures. Such forms shall be maintained as a public record at Frostburg State University. A copy of each form shall be filed with the Director of Research and Sponsored Programs.
2. The disclosure shall fully describe the relationship and provide such other information as may be required by the Director of Research and Sponsored Programs.
3. It is the responsibility of the faculty member to request approval of any relationship.

#### B. Review Process

The Director of Research and Sponsored Programs shall review the Research or Development Interest Form at the time of the initial request and at each subsequent filing to determine whether or not the disclosed interest represents a harmful interest, is an unacceptable conflict of interest, or is otherwise in violation of the policies, procedures, and best interest of the University. The Director of Research and Sponsored Programs may require that further information be disclosed and may recommend restrictions designed to manage, reduce, or eliminate any actual or potential conflict of interest. The Director may consult with the Maryland Department of Business and Economic Development and with other public and private agencies concerning the implementation of the System's policy and these procedures.

#### C. Approval Process

The President must approve each exemption in writing. Approval may not be granted unless the requirements of Section II.A of these procedures are met. The President's determination is final. The approval may be subject to such conditions or restrictions, as the President requires. Approval may be withdrawn if it is determined that the official or employee misrepresented the nature of his or

her interest in the entity, or if circumstances change in such a way as to create an unacceptable conflict of interest or a violation of University policy or other applicable legal requirements. The President shall file with the State Ethics Commission a copy of each disclosure form filed in support of an approved relationship.

D. Additional Operating Guidelines

1. Officials and employees with relationships approved under these procedures shall:
  - (a) ensure that their activities, statements, evaluations, recommendations, and judgments do not improperly give advantage to the outside entity;
  - (b) ensure that unauthorized statistics, documents, reports, comparison information, and other data are not disclosed which would improperly give advantage to the outside entity;
  - (c) be aware that legal restrictions regarding misuse of their position for personal gain or gain of another, solicitation or acceptance of improper gifts, and representing a party before the Board of Regents or the Board of Public Works a contingent fee, to apply, notwithstanding any approval under these procedures;
  - (d) continue to adhere to other University policies, including the System Policy on Professional Commitment of Faculty.
2. Where an exception under these procedures is sought by a President or Vice President or any individual holding a similar such position the person must comply with such procedures as established by the Board of Regents or Chancellor and the Board must find (1) participation by, and the financial interest or employment of, the official is necessary to the success of the research or development activity and (2) that any conflict of interest can be managed consistent with the purposes of relevant provisions of the Public Ethics Law.

IV. University Reporting Procedures

- A. Frostburg State University shall submit quarterly reports to the Chancellor stating the number of approvals granted under these procedures and how these procedures have been implemented in the preceding year.
- B. Frostburg State University shall develop a public file which will contain all the approved exemptions and applicable disclosure statements, and maintain such files for public review.

V. Definitions

- A. "Harmful interest" means an interest which when examined under the review procedures is found to be so influential as to impair impartiality in the conduct of the research, the interpretation or the results of the research, and/or the determination of research or other professional and employment priorities.

- B. "Relationship" means any interest, service, employment, gift, or other benefit or relationship with any entity that would be prohibited by Title 15, Subtitle 5 of the State's Public Ethics Law if not disclosed and approved pursuant to this Policy and procedures adopted pursuant to it. "Relationship" includes any relationship of the spouse or other relative of an officer or employee if such relationship creates restrictions on the officer or employee under the conflict of interest provisions of the Ethics Law.
- C. "Research or development" means basic or applied research or development, and includes the development or marketing of university - owned technology, and acquisition of service of an official or employee by an entity for research and development purposes, or participation in State economic development programs.

### **Procedures for Allegations of Misconduct in Scholarly Work**

*Approved by Faculty Senate, April, 1990 Approved by USM, August, 1990*

These procedures implement the University System of Maryland Board of Regents' "Policy on Misconduct in Scholarly Work" (approved November 30, 1989) in accordance with the Regents' "Guidelines for Policies and Procedures Relating to Allegations of Misconduct in Scholarly Work" (approved November 30, 1989). These procedures and the University System policy they implement apply to all Frostburg State University faculty, staff, and students in the performance of scholarly and creative activity and research conducted at or in association with the University or as part of or in association with the responsibilities and incidents of their appointment or degree requirements.

#### Definitions

**Days.** Days shall mean calendar days, including Saturday, Sunday, and such other days as the University is officially closed.

**Faculty Member.** As used herein, the term faculty member shall include any person associated with Frostburg State University subject to this policy and set of procedures.

**Mischievous Allegation.** A mischievous allegation of scholarly misconduct is one that a person makes knowing it to be false or made with a reckless disregard for the truth.

**Scholarly Misconduct.** The examples of scholarly misconduct contained in the above referenced Guidelines are herein incorporated by reference, provided, however, that no one shall be deemed to have engaged in such misconduct unless it is determined by a preponderance of all relevant evidence that the conduct in question was done intentionally and with a desire to deceive.

#### Initiation

A written allegation or other evidence of scholarly misconduct to be considered must be delivered to the Provost. Anonymous complaints are unfair to an accused individual and need not serve as the basis for an inquiry. The allegation shall be delivered to the President if a conflict of interest or a potential conflict of

interest exists with the Provost. In such circumstances, the President shall exercise the obligations of the Provost as stated in Sections III, IV, V, and VI following.

The Provost shall appoint a Committee of Inquiry to initially consider a proper written and signed allegation of scholarly misconduct. This will be accomplished no later than 10 days after receipt of the complaint. The Provost is not required to take action on a complaint which in their judgment is frivolous, unreasonably vague, or known to be otherwise improper.

In the event the Provost determines to appoint a Committee of Inquiry, the accused individual shall be informed of the existence and nature of the complaint and, if applicable, of members of the Committee.

If at any stage of the process the Provost determines there is a risk to subjects, human or nonhuman, personnel, or the environment, or a potential misuse of state or federal funds, the Provost shall take the necessary steps to protect those whose interests are in jeopardy and notify immediately any sponsor of externally supported scholarly work.

#### Committee of Inquiry

The Committee of Inquiry shall consist of three Frostburg State University tenured faculty members of equal or senior rank to the accused faculty member and of the same or allied discipline, with at least one member being of the same discipline.

The Committee shall consider the allegation and conduct an inquiry to determine if there is a reasonable and sufficient basis to warrant a full and lengthier investigation.

The Committee shall prepare for the Provost a confidential written report of its preliminary findings within 60 days after the receipt of the allegation. The report shall also contain a recommendation for any further action. If a majority of the Committee determines that upon the information available to them it is reasonable to believe that an act of academic misconduct may have occurred, then the Committee shall recommend that a full investigation be conducted. If the Committee determines that it is not reasonable to believe an act of academic misconduct has occurred, it shall so inform the Provost and also determine whether the allegation was mischievously made.

The manner of the inquiry shall be informal and shall proceed in the fashion the Committee believes best serves to reach an initial informed assessment of the probability of the truth and accuracy of the allegations. It rests in the judgment of the Committee when and in what manner it will receive submissions or interview the accused faculty member, accusing party, or others. The Committee shall endeavor to work as confidentially as possible, recognizing that it may need to consult persons with relevant knowledge not on the Committee. The Committee shall maintain such confidential notes of its inquiry as it believes are reasonable to chronicle its activities and findings. It shall deliver them to the Provost in support of its report. The Provost shall keep these notes in a secure manner for a period of at least three years after the termination of the inquiry.

If the Committee fails to complete its inquiry within 60 days, the record of inquiry shall include documentation of the reasons for exceeding the 60-day period.

Upon receipt of the Committee's report, the Provost may ask the Committee to undertake such additional initial inquiry as they believe will facilitate a threshold assessment.

Within seven days of the conclusion of the inquiry, the Provost will inform the accused faculty member of the final conclusions of the Committee and of their decision respecting the disposition of the case, including a decision to refer the matter to a Committee of Investigation.

### Committee of Investigation

Upon consideration of the report of the Committee of Inquiry, if the Provost believes there is a reasonable basis to determine that an act of academic misconduct may have occurred, then they will appoint within 30 days a Committee of Investigation to thoroughly investigate the allegations against the faculty member and such ancillary matters as the Committee of Inquiry may have noted. The individual will be informed of the matter(s) to be investigated.

The Committee shall consist of senior, respected members of the academic, professional, or scientific community in the same or closely allied discipline as the accused individual. At least one member must be a person not otherwise associated with the University System of Maryland.

If practical, the Provost shall appoint a Committee with the necessary and appropriate expertise. The Provost will develop two lists of potential Committee members:

1. A list of at least six Frostburg State University faculty, of equal or senior rank to the accused individual;
2. A list of at least two persons not primarily associated with the University System of Maryland.

The accused individual shall be extended the option to strike one person from each list. The Provost shall appoint the Committee of five members from the remaining names, also appointing two alternates.

The responsibility of the Committee shall be to undertake a thorough analysis of the allegation and to obtain all reasonably available information, which it believes relevant to the charges. It shall reach a conclusion as to the truth and accuracy of the allegation, provided, however, that no determination of scholarly misconduct shall be made unless a majority of the Committee finds it to be supported by a preponderance of the credible evidence before it. The Committee may conduct the investigation in such a manner as it believes is most conducive to obtaining and evaluating relevant, probative information. As part of its investigation, the Committee may or may not choose to conduct hearings. It may obtain information and expert opinion from persons outside of the University if it deems it necessary to reach a firm decision. The Committee shall be accorded authority, responsibility, and resources judged reasonably necessary by the Provost to accomplish its duties and as are consistent with the law. The notes and report of the Committee of Inquiry shall be available to the Committee. The Committee shall extend to the accused faculty member and to the person making the complaint offers to meet with it to discuss the matter and answer such questions as the Committee may have.

Consistent with fulfilling its responsibilities, the Committee shall endeavor to maintain a strict confidentiality in the performance of its activities.

The Committee shall prepare for the Provost a confidential written report of its investigation, including a summary of the evidence, findings, and conclusions. The report shall also contain specific recommendations consonant with the nature of its determination. The Committee shall endeavor to complete its investigation, including its final written report, within 120 days. The report of the Committee shall be advisory.

Upon receipt of the Committee's report and, if applicable, additional materials submitted by the accused individual, the Provost may ask the Committee to undertake such additional investigation as they believe necessary.

The Committee shall maintain such confidential notes or other record of its investigation as it believes is reasonable to chronicle its activities and findings. It shall deliver them to the Provost in support of its report. The Provost shall keep these notes in a secure manner for a period of at least three years after the termination of the investigation. Within seven days, the Provost will provide the accused individual the Committee report. The Committee shall complete its investigation and report in all cases, even if the individual leaves the University.

#### Disposition by the Provost

If upon consideration of the report of the Committee of Investigation the Provost believes that an act of scholarly misconduct is supported by a preponderance of the credible evidence, then disciplinary and/or administrative action consistent with the faculty member's contract and University rules shall be initiated.

If the Provost believes that scholarly misconduct is not demonstrated by a preponderance of the credible evidence, then they shall undertake such actions to restore the reputation of the accused as are described in the Regents' Guidelines as appear appropriate under all the circumstances and findings in the particular case.

#### Disclosure to Outside Sponsors

With the advice of counsel of the Office of the Attorney General of the State of Maryland, the Provost shall have the sole authority and responsibility of:

1. Determining the legal obligation of the University to inform an entity which is sponsoring scholarly work of the pendency and/or outcome of allegations of scholarly misconduct.
2. Determining when any necessary notification should be made.
3. Notifying the sponsoring entity and thereafter communicating with it about the case.
4. Notifying the Attorney General of the State of Maryland and, if applicable, the sponsoring federal agency within 24 hours of obtaining reasonable indication of possible criminal violations.

## FSU Policies and Procedures Concerning Scientific Misconduct in Sponsored Research

### I. INTRODUCTION

Integrity in research and scholarly activities is the responsibility of the entire academic community. Scholars work in an environment in which there is an important sense of trust. Published material is assumed to have been obtained during the author's investigations. Falsification or fabrication of such data is intolerable. Frostburg State University (FSU) is responsible for promoting academic practices that discourage misconduct. Also, it is responsible for developing policies and procedures and for providing the necessary resources for dealing with allegations or other evidence of misconduct in scholarly work.

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. Fraud or misconduct in carrying out academic activities undermines the integrity of the educational system and the scientific enterprise, and erodes the public trust in the university community to conduct research and communicate results using the highest standards and ethical practices. The responsibility to prevent and detect misconduct, however, must be assumed without creating an atmosphere that discourages the openness and creativity which are vital to scholarship and the research enterprise.

The Board of Regents of the University System of Maryland has adopted a "University System of Maryland Policy on Misconduct in Scholarly Work" (the "Misconduct Policy"), approved November 30, 1989, and "Guidelines for Policies and Procedures Relating to Allegations of Misconduct in Scholarly Work" (the "Guidelines"). Under the System's policies stated in the Misconduct Policy, misconduct in scholarly work by any USM employee is a breach of contract. Furthermore, misconduct in scholarly work by others associated with FSU (e.g., graduate students, volunteer faculty) will not be tolerated. It is the policy of FSU, as it is the policy of the System:

- A. To maintain high ethical standards in science and other scholarly work, to prevent Academic Misconduct where possible, and to evaluate and to resolve promptly and fairly instances of alleged or apparent Academic Misconduct.
- B. To take disciplinary action, which may include the termination of employment, against any individual found guilty of Academic Misconduct.
- C. To award no degree if Academic Misconduct in science or other scholarly work contributed to that degree and, when warranted, to revoke such a degree if Academic Misconduct is discovered after its award.

The Policy and Procedures presented in this document affirm the Misconduct Policy, which charges FSU to prepare, implement and publicize appropriate policies and procedures intended to instill and to promote the principles of professional integrity, to prevent scholarly misconduct, and to discover

and to deal with instances of scholarly misconduct if they occur. This policy (the "Policy") and the following procedures (the "Procedures" or "these Procedures") will apply to the investigation and resolution of alleged instances of Academic Misconduct.

The Policy and the Procedures apply primarily to faculty, staff and postbaccalaureate student research, scholarly writing, and the creation of works of art. They are not intended to address issues, such as the conduct of students in examinations and in fulfilling course requirements, which are covered by other policies. They are not intended to set up an alternative to existing procedures for resolving fiscal improprieties, issues concerning the ethical treatment of human or animal subjects, or criminal matters.

These procedures replace all other prior and existing policies and procedures of the Institutions for the handling of Academic Misconduct not excepted above.

The scope of this Policy and these Procedures is not limited to matters related to externally sponsored research but covers all research and scholarly activity, regardless of source of support. The Procedures are intended to comply with any and all federal regulations as pertinent to the specific case (including, but not limited to the Public Health Service Regulations and Assurances attached hereto as Appendix A), and may be modified as required by law - (and apply to all individuals who may be involved with a research project supported by the Public Health Service or for which an application has been submitted.)

## II. DEFINITIONS

As used in the Procedures:

- A. The following terms established as defined terms in Part I have the meanings indicated in that Part:
  - 1. "Misconduct Policy"
  - 2. "Guidelines"
  - 3. "Policy"
  - 4. FSU misconduct "Procedures"
  - 5. 5. "FSU"
  
- B. "Complainant" means the individual or individuals making allegations of Academic Misconduct.
  
- C. "Due Process" means the procedural guarantees granted to the Respondent during each stage of the Procedures, from the initial allegation to the final resolution of the charges. Specifically, the Respondent:
  - 1. must be notified in writing of the specific allegation being considered under these Procedures, as set forth in Section IV herein;
  - 2. must be given reasonable time to respond to the allegations at the Inquiry stage and to prepare a defense to the allegations at the Investigations stage;
  - 3. must be permitted an opportunity to participate in the Inquiry and Investigation proceedings as outlined herein;

4. must be given access to documents, reports, summaries of witness testimony, and other evidence upon which the allegations of Academic Misconduct are based;
  5. has the right to consult with counsel;
  6. has the right to a decision based exclusively on the evidence presented;
  7. has the right to a written statement of the decision and of the reasons for the decision, including the evidence relied upon for the decision.
- D. "Inquiry" means information gathering and initial fact-finding to determine whether an allegation or apparent instance of Academic Misconduct warrants an investigation.
- E. "Investigation" means the formal examination and evaluation of all relevant facts to determine if Academic Misconduct has occurred and its extent.
- F. "Academic Misconduct" or "misconduct in scholarly work" means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research or other scholarly work. Academic Misconduct also includes any form of behavior, including the making of allegations that involve frivolous, mischievous or malicious misrepresentation, whereby one's work or the work of others is seriously misrepresented. Academic Misconduct may take numerous forms including, but not limited to, those listed in Appendix B, attached hereto. Academic Misconduct does not include honest error or honest differences in interpretations or judgments of data.
- G. "President" means the President of FSU
- H. "Respondent" means the individual(s) against whom an allegation of Academic Misconduct is made.
- I. "Responsible Official" means the office or academic administrator designated by the Senior Academic Administrator to assume responsibility for carrying out these Procedures with respect to any specific allegation of Academic Misconduct. The Responsible Official normally will be the Vice President for Academic Affairs.
- J. "Senior Academic Administrator" means the concerned dean of an FSU professional school. If the Respondent is associated with more than one professional school at FSU, the President shall specify which of the affected deans shall act as the Senior Academic Administrator. In cases of actual or apparent conflict of interest, the President may specify a different individual to act as Senior Academic Administrator.
- K. "Vice President" means the Vice President for Academic Affairs, Frostburg State University.
- L. "VPAA" means the Vice President for Academic Affairs of FSU.

### III. PRINCIPLES GOVERNING THE PROCESS FOR HANDLING ALLEGATIONS OF ACADEMIC MISCONDUCT

In the Inquiry and in the Investigation, which may follow allegations of Academic Misconduct, FSU shall focus on the substance of the issues and be guided by the following principles:

- A. FSU must undertake examination of any allegation of Academic Misconduct according to these procedures.
- B. The Respondent shall be granted due process during all stages of the Procedures. However, FSU is responsible for protecting the health and safety of research subjects, patients, students and staff. If, in any stage of the procedures, there is cause to believe that the health or safety of any of these persons is endangered or that there is a need to protect Federal Funds or equipment or individuals affected by the inquiry, or if there is reasonable indication of possible criminal violations, then the PHS Office of Research Integrity ("ORI") will be notified within 24 hours and interim administrative action may be taken by the Senior Academic Administrator or President prior to the conclusion of either the Inquiry or the Investigation. Such action may range from slight restrictions to complete suspension of the Respondent and notification of the research sponsors and will also probably be publicly reported. Appropriate interim administrative action may also be taken to protect Federal Funds and ensure that the purposes of the Federal financial assistance are being carried out.
- C. The evaluation of allegations shall be kept confidential to the maximum extent possible. Unless and until a finding of Academic Misconduct is made by the Senior Academic Administrator, information about the allegations and about the examination of the allegations may be made available only to those who need to know, as determined by the Responsible Official in consultation with the Senior Academic Administrator. Generally, those who need to know include only the Respondent, individuals who are called upon to provide pertinent information or expert opinions, those conducting the evaluation, appropriate institutional officials, counsel, and recipients of reports to federal agencies as required by law.
- D. The integrity of the process must be maintained by painstaking avoidance of conflict of interest and the appearance of conflict of interest. No decisions regarding the seriousness of allegations of Academic Misconduct should be made by anyone whose personal or professional interests may be involved. Thus, although allegations may first be reported to a collaborator, a coworker, a co-author, a faculty advisor, or a team leader, the allegations must then be reported to the Senior Academic Administrator for further investigation. If a Complainant believes that the Senior Academic Administrator cannot have an impartial involvement in the matter, the person may make the allegations directly to the President or, if the Complainant believes that the President cannot have an impartial involvement. If conflict of interest is claimed by a Complainant, the President shall make a determination with respect to that claim prior to designating a Senior Academic Administrator and a Responsible Official for the Academic Misconduct allegation. If conflict of interest claims relate to that President, it would be a conflict of interest for the Senior Academic Administrator, as an official involved in the review process, to counsel the individual alleged to have engaged in scientific misconduct, and will not do so.

- E. The inquiry and any subsequent investigation should be as expeditious as practical.
- F. Relevant facts ascertained at each stage of these procedures shall be documented in detail, and any material evidence gathered shall be retained as part of the Inquiry or Investigation record. It is a violation of this Policy for any person, including the Complainant and the Respondent, to destroy, remove from FSU, or suppress any documentary evidence or other information in any format relevant to the subject of allegations of Academic Misconduct.
- G. Allegations shall be pursued within the scope of this policy without regard to whether related civil or criminal proceedings have been initiated or are underway. The Senior Academic Administrator may suspend any Inquiry or Investigation temporarily but is not under obligation to do so, as the academic integrity standards of FSU may differ from the standards of behavior imposed by civil and criminal law.
- H. After resolving allegations of Academic Misconduct favorably or unfavorably to the Respondent, the Senior Academic Administrator shall communicate the results of these procedures internally, to all involved individuals, and externally, as appropriate in his determination, to the public, to the sponsors of the relevant research, to scientific and/or professional journals, and to the scientific and professional community.
- I. Even if a Respondent leaves or has left FSU before the examination of the allegations is concluded, the examination will be pursued to its conclusion.

#### **IV. REPORTING MISCONDUCT; THE INITIATION OF AN ALLEGATION OF ACADEMIC MISCONDUCT**

- A. Reporting Academic Misconduct in scholarly work is a responsibility shared by everyone at FSU. Frivolous, mischievous or malicious misrepresentation in alleging Academic Misconduct to FSU or other persons or entities will not be tolerated and will be subject to sanctions under these Procedures.
- B. Allegations must be reported to the Senior Academic Administrator or the Vice President of Academic Affairs. If the Complainant believes that all of these parties have a conflict of interest, the allegations may be reported to the Provost or to the President.
- C. Anonymous allegations are not encouraged. However, anonymous allegations will be acted upon to the extent practical. Anonymity of the individual making allegations cannot be assured.
- D. If allegations under this Policy involve Respondents or Complainants associated with other campuses, centers, or institutes in the University System of Maryland, the Senior Academic Administrators of the Institutions shall meet and agree upon a division of responsibility for administering these Procedures.
- E. If more than one Complainant has brought allegations relating to the same subject matter or underlying facts and circumstances, the allegations may be the subject of a combined inquiry and of combined proceedings under parts V and VI of these Procedures in order to avoid repetitious inquiry and Investigation and in order to accomplish expeditious resolution of all pending allegations.

## V. INQUIRY PROCEDURES

The first step of the review process is the inquiry, which has as its purpose fact finding in an expeditious manner to determine only whether there is sufficient basis for the allegations to warrant a full Investigation and, if an Investigation is not warranted, to make any other necessary recommendations concerning the disposition of the case.

### A. Consultation and Complainant

When allegations subject to this Policy have been made, the Responsible Official shall provide the Complainant with a copy of this document, shall advise the Complainant of the seriousness of proceedings under this Policy and the possible sanctions for inappropriate allegations of Academic Misconduct and shall review with the Complainant the policies and procedures to be used in reviewing the allegations. If, following this review, the Complainant wishes to proceed, or the Responsible Official has determined from information gathered that the allegations should be examined regardless of the wishes of the Complainant, the Responsible Official will initiate the inquiry process. In appropriate cases the Responsible Official will initiate the Inquiry process even if the person originating the allegations does not wish to be identified officially as the Complainant.

The inquiry may be divided into a Preliminary Review and the formal Inquiry, at the discretion of the Responsible Official.

### B. Collection of Relevant Materials

At the outset of the Inquiry, the Responsible Official shall gather all original data and other original records relevant to the issues. It is the responsibility of the Complainant, the Respondent, and others holding relevant materials to provide them upon request. Under the Responsible Official's direction, copies of materials may be made for use of the Complainant and Respondent. Original materials will be available for use and examination by the Complainant and Respondent (under strict supervision), the Inquiry Committee, and the Investigation Committee. The original materials shall be maintained securely by the Responsible Official or his designee.

### C. Preliminary Review of the Allegations

The Senior Academic Administrator and Responsible Official shall confer as necessary with other FSU officials and counsel to FSU to determine whether the allegations are allegations of Academic Misconduct subject to this Policy or are instead allegations falling under other policies and procedures, such as those relevant to employment grievances. In the latter case, the person making the allegations shall be referred to the alternative policies and procedures, or the allegations shall be referred to appropriate administrators for resolution.

If it is not apparent from the content of an allegation whether or not it relates to Academic Misconduct and/or warrants initiation of an Inquiry, the Responsible Official may conduct a Preliminary Review. The Responsible Officials shall determine whether to conduct a Preliminary Review or proceed directly to an Inquiry within ten (10) working days after receiving an allegation. If a Preliminary Review is undertaken, it shall be concluded within thirty (30) calendar days after it is commenced. In the Preliminary Review, the Responsible Official, or persons designated by the

Responsible Official, shall interview the Complainant (if known) and the Respondent (if identified in the allegation). Records of information gathered in this manner shall be made.

Based on the result of the Preliminary Review, the Responsible Official shall decide either (1) to proceed with an Inquiry, or (2) subject to the concurrence of the Senior Academic Administrator, to close the file. The Responsible Official may close a file only if the Preliminary Review indicates (a) that there is no evidence to support the allegation; (b) that the allegation involves matters which are beyond the scope of Academic Misconduct; or (c) that the allegation involves minor or insignificant matters that do not warrant initiation of an Inquiry.

#### D. The Inquiry

Upon deciding to proceed with an Inquiry, the Responsible Official shall appoint as expeditiously as possible, but in all cases within thirty (30) calendar days following the Senior Academic Administrator's determination to proceed with an Inquiry, an Inquiry Committee composed of tenured faculty with no conflict of interest or appearance of conflict of interest, with no appointment in the departments of either the Complainant or the Respondent, and with appropriate expertise for evaluating the information relevant to the case. The number of committee members shall be three (3), and one of these members shall be named as chair of the committee by the Responsible Official. Records made during the Preliminary Review shall be provided to the Inquiry Committee and to the Respondent.

The Responsible Official shall notify the Respondent formally, in writing, of the allegations and of these Procedures, providing the Respondent with a copy of this document and calling attention to the Respondent's due process rights under these Procedures. Further, the Respondent (and the Complainant, if applicable) will be informed of the proposed membership of the Inquiry Committee for the purpose of identifying in advance any conflict of interest issues. If the Respondent raises such issues, they shall be addressed and resolved by the Responsible Official.

The Inquiry Committee shall arrive at a judgment as expeditiously as possible. An Inquiry must be completed within sixty (60) calendar days of its initiation unless circumstances clearly warrant a longer period. If this deadline cannot be met, a request for extension which includes a report of reasons for the request, a description of the progress to date and an anticipated schedule for completing the Inquiry shall be filed with the Responsible Official, and all involved persons shall be informed by the Responsible Official.

The inquiry report shall contain the following information: (1) The name and position of the respondent(s); (2) A description of the allegations of research misconduct; (3) The PHS support involved, including, for example, grant numbers, grant applications, contracts, and publications listing PHS support; (4) The basis for recommending that the alleged actions warrant an investigation; and (5) Any comments on the report by the respondent or the complainant.

Where the Complainant seeks anonymity, the Inquiry Committee shall operate in such a way as to maintain that anonymity to the degree compatible with accomplishing the fact-finding purpose of the Inquiry. As stated above in IV. A., anonymity cannot be assured.

In fact, anonymity of the Complainant is neither desirable nor appropriate where the testimony or evidence of the Complainant is important to the substantiation of the allegations.

The Inquiry Committee has the Authority to collect all information as described below. The Inquiry Committee also may call meetings with individuals whom they believe to be able to provide information pertinent to the fact-finding charge.

When information, expert opinions, records, and other pertinent data are needed, the Inquiry Committee shall obtain this evidence from or through the Responsible Official. The Responsible Official may request information, expert opinions, records and other pertinent data. However, the Responsible Official has neither subpoena power nor any other compulsory process, and the cooperation of the Respondent (beyond production of relevant materials and data, as described in Part B above) shall be entirely voluntary. If the Inquiry Committee determines that information voluntarily submitted to it is insufficient to determine that the allegations of Academic Misconduct are ill-founded, it may recommend the implementation of an Investigation in an effort to resolve the issues.

The Respondent is free to consult legal counsel, at their own expense. Timely access to all documents reviewed by the Inquiry Committee will be assured to the Respondent. All material will be considered confidential and shared only with those with a need to know.

Records of the Inquiry, including copies of all documents and related communications, are confidential and shall be kept secure in the office of the Responsible Official or a place directed by the Responsible Official. Sufficiently detailed documentation of the Inquiry will be kept to permit a later assessment of the reasons for determining that an Investigation is or is not warranted.

The conclusions of the Inquiry Committee will be conveyed to the Responsible Official. The Committee's written report shall state what evidence was reviewed, summarize relevant interviews, and include the findings and conclusions of the Inquiry. The Respondent and the Complainant shall be given a copy of the report of the Inquiry Committee by the Responsible Official and shall have fifteen (15) calendar days to comment on the report. If the Respondent or Complainant comments on the report, those comments shall be made part of the record.

If the Inquiry takes longer than sixty (60) calendar days to complete, the record of the Inquiry shall include documentation of the reasons for exceeding the sixty (60) calendar day period.

If FSU plans to terminate any Inquiry for any reason without completing all relevant requirements, a report of such planned termination, including a description of the reasons for such termination, shall be made to the ORI.

#### E. Inquiry Report and Subsequent Actions

The final report of the Inquiry will be limited to the issue of whether to proceed to an Investigation. The report will be conveyed by the Responsible Official to the Senior Academic Administrator, who will consider it and may consult with the Vice President of Academic Affairs and the appropriate officials of FSU. In addition, the Senior Academic Administrator shall consult with legal counsel. The

Senior Academic Administrator shall determine within fifteen (15) calendar days of receiving the Inquiry Committee's report from the Responsible Official whether to proceed to an Investigation. That decision shall be based upon the information contained in the report of the Inquiry Committee. In determining that an Investigation is warranted, the Senior Academic Administrator determines only that sufficient basis exists for conducting an Investigation. The decision to proceed to an Investigation is not a determination of fault and establishes no presumptions of fault.

If no investigation is recommended, the Responsible Official should indicate whether, in his judgment and, if reported, in the judgment of the Inquiry Committee, the allegations appear to have been made in good faith and, if not, whether it appears that bringing the allegations may have been Academic Misconduct under this Policy or other conduct warranting sanction. The Responsible Official will report such recommendations to the Senior Academic Administrator for further action at the discretion of that individual. In such instances this Policy shall be implemented before any sanctions are applied against the Complainant.

If allegations are not confirmed by the Inquiry, the FSU will undertake diligent efforts, as appropriate to restore the reputations of persons alleged to have engaged in misconduct.

If the outcome of the Inquiry does not indicate the need for an Investigation, but does suggest alternative action(s), such actions may be taken or directed by the Senior Academic Administrator. For example, the Senior Academic Administrator or the Inquiry Committee may determine that a correction of the literature is required, but no further action is indicated. Even if the Inquiry report does not recommend corrective action, the Responsible Official is free to recommend, and the Senior Academic Administrator to take, such action.

FSU will undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations of scientific misconduct.

At the close of an Inquiry, all materials provided to the Inquiry Committee by the Responsible Official and other parties and all records of the Inquiry Committee will be delivered to the Responsible Official for safekeeping and disposition in accordance with this policy. In cases where the Inquiry determines that an Investigation is not warranted detailed documentation of the Inquiry shall be maintained for at least three years and will be provided to authorize H.H.S. personnel upon request.

## **VI. INVESTIGATION**

When the Senior Academic Administrator determines that an investigation is warranted, they shall inform the Responsible Official, who shall initiate an Investigation and notify the appropriate state and federal government agencies as required by law. FSU will inform ORI on or before the date the Investigation begins.

The Responsible Official shall appoint an investigation Committee with three (3) or five (5) members within thirty (30) calendar days after the Senior Academic Administrator determines that an Investigation should be undertaken and, on or before the date when the investigation begins, send

the inquiry report and the written determination to the ORI. Upon a request from ORI we shall promptly send them: (1) a copy of our institutional 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 for the investigation to consider.

We shall promptly provide to ORI after the investigation: (1) A copy of the investigation report, all attachments, and any appeals; (2) A statement of whether the institution found research misconduct and, if so, who committed it; (3) A statement of whether the institution accepts the findings in the investigation reports; and (4) A description of any pending or completed administrative actions against the respondent.

The Investigation Committee shall be composed entirely of tenured full professors or professors emeritus at least one of who shall not be associated with the University System of Maryland. Members of the Investigation Committee are to have no real or apparent conflict of interest, to hold no appointment in the department of either the Complainant or the Respondent, and to have appropriate expertise for evaluating the information relevant to the allegations. The Responsible Official shall name one member of the Investigation Committee as its chair.

The Respondent (and the Complainant, if applicable) will be informed of the proposed membership of the Investigation Committee for the purpose of identifying in advance any conflict of interest issues. If the Respondent raises such issues, they shall be addressed and resolved by the Responsible Official.

The purpose of the Investigation is to explore further the allegations, to determine whether the Committee finds that the evidence supports the allegations, and to determine the extent of any Academic Misconduct. In addition to evaluating the allegations, the Investigation Committee may recommend to the Responsible Official appropriate sanctions if the allegation of Academic Misconduct appears to be well founded.

#### A. The Investigation

Investigation Committee meetings and hearings are confidential and will be closed by request of the Respondent or the Complainant or by action of the Committee. Written notification of meeting and hearing dates and copies of all relevant documents will be provided to the Respondent by the Responsible Official at least seventy-two (72) hours in advance of scheduled meetings. Proceedings will be recorded, and copies of the tapes shall be made available to the Respondent, the Complainant, or members of the Committee upon request.

The Responsible Official will provide to the Investigation Committee all information gathered during the Inquiry. The Investigation normally will include examination of all documentation including, but not necessarily limited to, relevant research data and proposals, publications, correspondence, and memoranda of telephone calls. In conducting all investigations, the Investigation Committee shall: (1) 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 the allegations; (2) 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 investigation; (3) Pursue diligently all significant issues and leads discovered that are determined relevant to the investigation, including any evidence of additional instances of possible research misconduct, and continue the investigation to completion.

The Investigation must be sufficiently thorough to permit the Investigation Committee to reach a firm decision about the validity of the allegations and the scope of the wrongdoing or to be sure that further investigation could not alter an inconclusive result. The Responsible Official shall secure, upon the Investigation Committee's request, necessary and appropriate expertise to carry out the Investigation if the Investigation Committee's membership does not include all required expertise. In the course of an Investigation, additional information may emerge that may justify broadening the scope of the Investigation beyond the initial allegations. Should this occur, the individuals affected shall be informed in writing of significant new directions in the investigation.

All members of the FSU community are obliged to cooperate in a timely fashion by producing any additional data requested for the investigation. Copies of all materials obtained by the Committee shall be provided to the affected individuals following any deletions required to protect confidentiality of persons making allegations of Academic Misconduct. Original materials obtained by the Committee shall be stored securely along with other materials collected by the Responsible Official.

The Respondent shall have an opportunity to address the charges and evidence in detail, both in writing and at a hearing before the Investigation Committee. The Respondent shall have the right to present evidence and to call and question witnesses. The Respondent is free to seek the assistance of legal counsel at their own expense. Legal counsel may accompany and speak for the Respondent when meeting with or being heard by the Responsible Official and/or Investigation Committee.

If there is cause to believe that the health or safety of research subjects, patients, students, or staff is endangered or that the integrity of sponsored research is endangered, the Investigation Committee shall immediately report significant developments during the course of the Investigation to the Responsible Official, who may report to the research sponsor. Additionally, actions will vary according to the circumstances of each case, but examples of actions that may be necessary include delaying the publication of research results, providing for closer supervision of one or more researchers, requiring approvals for actions relating to the research that did not previously require approval, auditing pertinent records, or taking steps to contact other institutions that may be affected by an allegation of research misconduct.

An Investigation shall be completed within one hundred twenty (120) calendar days of the formation of the Investigation Committee, unless the deadline is extended by the Responsible Official. This includes conducting the Investigation, preparing the report of findings, conveying the report to the Responsible Official, making that report available for comment by the subjects of the Investigation, notifying the Respondent of a decision as to the ultimate outcome of the Investigation and recommendations, if any, and submitting the report to the ORI.

If the Responsible Official after receiving a request from the Investigation Committee to extend its deadline and after consulting with the Investigation Committee, determines that the Investigation Committee will not be able to complete the investigation before one hundred twenty (120) calendar days, they shall consider the request. At such time the Investigation Committee must submit to the Responsible Official an interim report on the progress to date and an estimate of the date of completion of the report and other necessary steps. An extension request will also be submitted to ORI. Such request to ORI will include an explanation for the delay, an interim report on the progress to date, an outline of what needs to be done, and an estimated date of completion. If FSU plans to terminate any Investigation for any reason without completing all relevant requirements, a report of such planned termination, including a description of the reasons for such termination, shall be made to ORI.

Any consideration for an extension must balance the need for a thorough and rigorous examination of the facts against the interests of the subject(s) of the investigation, FSU and research sponsors in a timely resolution of the matter. It is the intent of this Policy that extensions should be avoided and should not be granted for unreasonable lengths of time. If the request is granted, the Responsible Official must document in writing the reasons and provide in writing an extension with a new deadline. If FSU plans to terminate any Investigation for any reason without completing all relevant requirements, a report of such planned termination including a description of the reasons for such termination, shall be made to ORI.

After all evidence has been received and hearings completed, the Investigation Committee shall meet in closed sessions to deliberate, and prepare its findings and recommendations. In its deliberations, the Investigation Committee shall apply the preponderance of evidence standard to the evidence it considers.

#### B. Investigation Report

Upon completion of the Investigation, the Investigation Committee shall submit to the Responsible Official a full report, which details the Committee's findings and recommendations. The recommendations shall specify actions appropriate for the seriousness of the findings. These recommendations shall address actions to restore damaged reputations, if necessary, and shall identify specific retractions, disclaimers and announcements necessary to clarify the record. The Committee may recommend sanctions if Academic Misconduct is found.

If Academic Misconduct is not found the Committee shall indicate whether or not the allegations appear to have been made in good faith and, if not, whether the bringing of the allegations appears to be Academic Misconduct or other misconduct warranting sanction by the Institution.

The Responsible Official will send the Investigation Committee's report to the Respondent. If the Complainant can be identified, they shall be provided with those portions of the report that address their role and opinions in the Investigation. The Respondent and the Complainant will be allowed fifteen (15) calendar days to comment in writing upon the Investigation Committee's report. The report and the response, if any, of the Complainant and Respondent will be provided to the Senior Academic Administrator by the Responsible Official.

At the conclusion of the Investigation Committee's work, all materials provided to the Inquiry Committee by the Responsible Official and other parties and all records of the Investigation Committee will be delivered to the Responsible Official for safekeeping and disposition in accordance with this Policy. Documentation to substantiate the Investigation's findings will be prepared, maintained and made available to the Director, ORI.

The Respondent shall be informed of the appeals process, as described in paragraph VIII herein, when they are notified of the Committee's findings and when the Senior Academic Administrator's decision regarding application of sanctions is communicated to the Respondent. If the sanctions involve a recommendation for termination of employment, the policies of the System and FSU concerning termination of academic appointments or other employment will be invoked.

## **VII. RESOLUTION OF ALL ALLEGATIONS OF ACADEMIC MISCONDUCT**

The final report of the Investigation Committee, conveyed to the Senior Academic Administrator by the Responsible Official, will be considered by the Senior Academic Administrator, who may consult with other academic officers as appropriate. The Senior Academic Administrator also shall consult with legal counsel. The SAA shall make a determination as to the presence or absence of Academic Misconduct within thirty (30) calendar days of receiving the Investigating Committee's report from the Responsible Official. This thirty (30) calendar day period may be extended by the President for an additional thirty (30) calendar days for good cause. Otherwise the proceedings shall be considered terminated with no finding adverse to the Respondent.

A final report describing 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 including 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 FSU will be submitted to ORI.

### **A. Finding of Absence of Academic Misconduct**

All research sponsors and others initially informed of the Investigation should be informed in writing by the Senior Academic Administrator that allegations of Academic Misconduct were not supported.

Consideration shall be given as to what actions may be needed to restore the reputations of persons alleged to have engaged in Academic Misconduct when allegations are not confirmed. In publicizing the finding of no Academic Misconduct, the Senior Academic Administrator shall be guided by whether public announcements will be harmful or beneficial in restoring any reputation(s) that may have been damaged. Usually, such a decision will rest with the person who was wrongly accused. Consideration also shall be given as to what efforts are required to protect the positions and reputations of those persons who, in good faith, made allegations, whether or not those allegations were confirmed.

If the allegations, however incorrect, are deemed by the Senior Academic Administrator to have been in good faith, no disciplinary measures shall be taken against the Complainant and efforts shall be made to prevent retaliatory actions.

If the allegations are deemed by the Senior Academic Administrator not to have been made in good faith, appropriate procedures for disciplinary actions shall be initiated against the person(s) who made the allegations. Such a finding may constitute an allegation of Academic Misconduct on the Complainant's part. In such instances, these Procedures shall be implemented before any sanctions are applied against the Complainant.

## B. Finding Of Academic Misconduct

When there is a finding of Academic Misconduct, the Senior Academic Administrator shall determine whether sanctions will be imposed and the nature of those sanctions. The Senior Academic Administrator shall consult with legal counsel and with the Attorney General's Office, and may consult with the Responsible Official and any other individuals necessary before reaching a decision as to appropriate action. The Responsible Official or other campus officials designated by the Senior Academic Administrator will implement those sanctions approved by the Senior Academic Administrator. The sanctions will be appropriate for the seriousness of the Academic Misconduct, and may include, but are not necessarily limited to, the following:

- Removal from particular project;
- Special monitoring of future work;
- Letter of reprimand;
- Probation for a specified period with conditions specified;
- Suspension of rights and responsibilities for a specified period;
- Financial restitution;
  
- Termination of employment or other actions affecting employment or faculty appointment (if formal termination proceedings are instituted, such proceedings must be in accordance with System and Institution termination policies and procedures);
- Any other disciplinary actions available as corrective action in a case of inappropriate behavior by a student or a faculty member or other employee.

In addition to imposing appropriate sanctions, FSU shall do everything it can to clarify the record, such as:

- Formal notification of sponsoring agencies, funding sources, coauthors, co-investigators, collaborators, departments, campus and university publications, editors of journals in which fraudulent research was published, state professional licensing boards, other institutions, sponsoring agencies, funding sources with which the individual has been affiliated, and professional societies;
- Public announcements;
- Published retractions and disassociation with published papers;
- Formal withdrawal of pending application for research support.

## **VII. APPEAL**

The Respondent may appeal the findings of the Investigation Committee and the conclusions of the Senior Academic Administrator to the President following a determination of Academic Misconduct by the Senior Academic Administrator. A written statement of the grounds for the appeal must be submitted to the President within thirty (30) days of written notification of the Senior Academic Administrator's final determination. Grounds for appeal include, but are not limited to, new unconsidered evidence not previously available, recommended sanctions not in keeping with the findings, conflict of interest not previously known among those involved in the Investigation, failure to disclose to the Respondent in a timely manner evidence considered supportive of the allegation, failure to consider relevant information proffered by the person who was the subject of the allegation, prejudicial lapses in providing the Respondent due process as defined by these Procedures and failure to follow these Procedures.

Upon receipt and consideration of a written appeal and such other information as the President may request of the Senior Academic Administrator or the Responsible Official, the President shall determine, in their sole discretion, information on specific points, or to affirm the action of the Senior Academic Administrator. The President's decision shall be reported to all involved in a timely fashion. The President will endeavor to reach a decision within sixty (60) days after the appeal is received by the President.

Frostburg State University will cooperate fully and on a continuing basis with ORI during its oversight reviews of this institution and its research misconduct proceedings and during the process under which the respondent may contest ORI findings of research misconduct and proposed HHS administrative actions. This includes providing, as necessary to develop a complete record of relevant evidence, all witnesses, research records, and other evidence under our control or custody, or in the possession of, or accessible to, all persons that are subject to our authority. We will report to ORI any proposed settlements, admissions of research misconduct, or institutional findings of misconduct that arise at any stage of a misconduct proceeding, including the allegation and inquiry stages.

## **IX. RECORDS OF PROCEEDINGS**

If it is determined that an investigation is warranted, the Inquiry records shall be maintained in a secure manner for a period of at least three (3) years after the termination of the subsequent investigation, and, upon request, may be provided to authorized federal agencies. If no reason to proceed to an Investigation is found, records of an Inquiry shall be destroyed three (3) years after completion of an Inquiry unless otherwise required by law or directed by the Senior Academic Administrator.

Records of a completed Inquiry are confidential and shall be maintained by the Office of the Vice President of Academic Affairs or any other Office designated by the Senior Academic Administrator. The records of the Inquiry are to be passed on to an Investigation Committee if an Investigation is initiated. Records of an Inquiry may be provided to federal or state agencies as required by federal or state law.

Records of an Investigation, including copies of all documents and related communications, are confidential and shall be kept secure in the Office of the Responsible Official, or any other Office designated by the Senior Academic Administrator, for at least seven (7) years. Records of the Investigation may be provided to federal or state agencies as required by federal or state law.

Upon destruction of Inquiry or Investigation records, any original research data or materials in the records shall be returned to the investigator(s) from whom the materials were obtained.

#### **X. EXAMPLES OF ACADEMIC MISCONDUCT**

These examples are taken from the Guidelines and from recommendations of a task force on Institutional Policy for the Handling of Academic Misconduct, which included in its membership faculty from FSU. They are not intended to be exhaustive.

- A. **FALSIFICATION OF DATA:** Ranging from fabrication to deceptive, selective reporting of findings and omission of conflicting data, or willful suppression and/or distortion of data.
- B. **PLAGERISM:** The appropriation of the language, ideas, or thoughts of another and representation of them as one's own original work.
- C. **IMPROPRIETIES OF AUTHORSHIP:** Improper assignment of credit, such as excluding others by knowingly not citing their work; misrepresentation of the same material as original in more than one publication
- D. **MISAPPROPRIATION OF THE IDEAS OF OTHERS:** An important aspect of scholarly activity is the exchange of ideas among colleagues. Improper or nonattributive use of information acquired in this process constitutes Academic Misconduct. New ideas gleaned from such exchanges can lead to important discoveries. Scholars also acquire novel ideas during the process of reviewing grant applications and manuscripts. However, improper use of such information or wholesale appropriation of such material constitutes Academic Misconduct.
- E. **VIOLATION OF GENERALLY ACCEPTED RESEARCH PRACTICES:** Serious deviation from accepted practices in proposing or carrying out research, improper manipulation of experiments to obtain biased results, deceptive statistical or analytical manipulations, or improper reporting of results.
- F. **DELIBERATE VIOLATION OF REGULATIONS:** For example, failure to comply with regulations concerning the use of human subjects, the care of animals, health and safety of individuals and the environment, new devices, investigational drugs, recombinant products, or radioactive, biologic or chemical materials.
- G. **INAPPROPRIATE BEHAVIOR IN RELATION TO Academic Misconduct:** Including bad faith accusation of Misconduct; failure to report known or suspected Academic Misconduct; withholding or destruction of information relevant to a claim of Academic Misconduct; and retaliation against persons involved in the allegation or investigation of Academic Misconduct.

- H. MISAPPROPRIATION OF FUNDS OR RESOURCES: For example, the misuse of funds for personal gain.
- I. ABUSE OF CONFIDENTIALITY: For example, improper use of information gained by privileged access, such as information obtained through service on peer review panels and editorial boards.

### **Office of Research and Sponsored Programs**

The Office of Research and Sponsored Programs assists faculty and administrators in seeking externally sponsored grants, contracts, fellowships, and other agreements. Technical assistance is provided regardless of the amount of proposed award, type of agency (federal, state, or private), or the purpose of the proposed project (instructional improvement, research, or community/ university service). All proposals for externally sponsored projects must be delivered to the Office of Research and Sponsored Programs at least five working days before the mailing deadline to insure time for administrative review. The Office of Research and Sponsored Programs is located in Room 511 of the Library.

The following services are available:

1. Information on funding sources through reference materials and Grantsline.
2. Individual searches for funding opportunities.
3. Assistance in proposal preparation and budget development.
4. Coordination and support for visits to federal funding agencies.
5. Assistance with internal review and securing authorizing signatures.
6. Duplication and mailing of proposals to funding agencies.
7. Assistance in grants acceptance and administration.