

Guideline for Investigations by the Office of Research & Compliance (ORC) in Situations Where Applicable UNM Policy Does Not Prescribe Investigation Procedure

1. **Complaint Review**: ORC receives a complaint and reviews it within seven (7) business days.

All matters received by ORC will be reviewed initially. ORC will determine if sufficient information exists for an investigation. If the complaint is clear and sufficiently specific, ORC will determine jurisdiction by ORC and any other applicable offices within the initial seven (7) business days.

If the allegations are ambiguous, ORC will contact the Claimant for additional information. If the allegations are ambiguous and the anonymous Claimant has not left contact information or if the Claimant is not responsive, ORC will close the case due to insufficient information. ORC will make a reasonable effort to notify the Claimant where contact information has been provided.

2. **Allegation/s Assessment**: Once the complaint is sufficiently specific and clear, ORC will assess the allegation/s. If other offices may need to be involved in the investigation, ORC will contact them within ten (10) business days from the receipt of the original unambiguous claim or within seven (7) business days from the receipt of additional information which clarifies the allegation/s.
3. **Preliminary Assessment & Notices**: If it has not done so already, ORC will discuss the process with the Claimant and share a copy of these guidelines or a web link where they are published. ORC will start preservation of any early evidence and commence sequestration where appropriate. ORC will aim to finish the early evidence sequestration and its review within thirty (30) calendar days from receiving clear and unambiguous allegations.

- a. In situations where the initial inquiry results in purely legal analysis which absolves the Respondent of the allegations at this stage of the proceeding, ORC will conclude the investigation and report the finding of no-guilt with recommendation not to proceed and to absolve the Respondent. The report will be provided to the person with authority over the matter, commonly referred to as the Deciding Official. If the Deciding Official adopts the ORC finding, the Claimant will be notified of the decision not-to-proceed, provided the Claimant can be reached.
 - b. If the initial inquiry does not absolve the Respondent on legal or policy grounds or if the Deciding Official seeks further investigation, ORC will assess if additional sequestration is necessary and will proceed accordingly. ORC will aim to conclude additional sequestration within twenty one (21) calendar days.
 - c. Once all evidence is sequestered and properly secured within ORC, ORC will notify the Respondent of the allegations, about the investigation process, provide a copy of these guidelines or a web link to them, and may request information from the Respondent.
4. **Evidentiary Standard:** When analyzing the facts, ORC investigators will base conclusions by balancing the probability of whether the alleged incident(s) occurred. This is the *Preponderance of the Evidence* standard of proof that an incident is more likely to have occurred than not.
5. **Respondent's Access to Sequestered Information:** If the Respondent so requests in writing, s/he will be given access to, and where practical copies of, the *research records* that have been sequestered from sources other than him/her. Respondent's access to or copies of those research records shall not be granted prior to the conclusion of the sequestration process described in 3.b. above.

Respondent's requests to view scientific research record shall be made in writing. An email to the ORC investigator or to rcgeneral@unm.edu will be sufficient for making this request to ORC.

6. **Interviews**: Claimant and Respondent may be interviewed during the investigation, along with anybody else whom ORC investigators determine may be able to assist in the investigation.

The Interviewee may bring an advisor to the interview. If the advisor is a lawyer, s/he will need to introduce herself/himself as a lawyer. The advisor will not be allowed to speak on the Interviewee's behalf but may consult with the Interviewee so long as such consultations are not extensive and do not disrupt the interview. If the advisor cannot comply, s/he may be asked to leave the interview.

The interview will be recorded and possibly transcribed. The interview recording or its transcript may become part of the final investigation report which is circulated to entities and persons involved in this matter including other UNM officials, other respondent/s (if applicable), agencies which sponsored the relevant research, and other entities if appropriate. The interview transcript may also be disclosed pursuant to requests from public records under Inspection of Public Records Act and Freedom of Information Act.

7. **Defense**: Respondent will be given an opportunity to comment in writing or to rebut the allegations in writing prior to and/or after his/her interview. Respondent may elect not to do so but if s/he wishes to comment and/or rebut the allegations during the investigation process, the opportunity to do so in writing shall not be denied to him/her. The Respondent shall provide his/her written rebuttal or comments within fourteen (14) business days from the date of his/her request. The Respondent may do so before or after the interview or both (two times) during the investigation process.

Respondent's requests to provide written comments or rebuttal shall be made in writing. An email to the ORC investigator or to rcgeneral@unm.edu will be sufficient for making these requests to ORC. Written comments and rebuttals will be formally considered and will become part of the record. Verbal comments may be formally considered but ORC cannot guarantee that verbal comments will be considered.

8. **Investigation Report**: At completion of an investigation, a preliminary report will be generated and provided to the Respondent who will have twenty one (21) business days to provide written rebuttal or written comments to the report. ORC will then have seven (7) business days to reply to the rebuttal and to provide the final report to the person with the authority over the matter, that is, the Deciding Official. ORC report to the Deciding Official shall include written comments by the Respondent and ORC's reply to them.
9. **Timeline**: ORC investigations which are not complex typically take ninety (90) calendar days. Complicated investigations typically take one hundred and twenty (120) to one hundred and eighty (180) calendar days.
10. **Institutional Decision & Sanction/s**: Once the Deciding Official makes the final finding and decisions regarding applicable remedies and sanctions, the Deciding Official will effectuate the remedies and sanctions. If sanctioning and remedial authority vests with someone else, the Deciding Official will engage the appropriate administrator who is authorized to effectuate remedies/sanctions. Also, the Claimant will be notified of the institutional decision by the Deciding Official, provided the Claimant can be reached.
11. **Appeal**: Opportunities and process for appealing the institutional decision depend on the procedures and guidelines applicable to the actions of the Deciding Official who will be presiding over the matter. If policies which govern the alleged misconduct do provide for appellate procedures, they will govern how appeal will be handled by the Deciding Official. ORC may assist in the appellate process if directed by the Deciding Official.

[The above guidelines apply in situations where ORC is called to investigate allegations of research-related misconduct that is governed by regulations, rules, and/or policies which do not prescribe an investigation process. For ORC's

investigations that involve the following allegations, different investigation processes will apply, specifically:

For allegations of **research misconduct involving plagiarism, falsification, or fabrication in connection with UNM research**, see UNM Faculty Handbook Policy E40: Research Misconduct, at <https://handbook.unm.edu/e40> and ORC's web page on Research Integrity investigations under UNM Policy E40, at <https://researchcompliance.unm.edu/research-integrity> .

For allegations of misconduct pertaining to rules governing **conflict of interest in UNM research**, see UNM Faculty Handbook Policy E110: Conflict of Interest in Research, at <https://handbook.unm.edu/e110/> and ORC's web page on Conflict of Interest in Research rules and procedures, at <https://researchcompliance.unm.edu/coi-overview> .

For allegations of misconduct concerning **protection of human participants in UNM research**, see <https://irb.unm.edu/policies-guidance/index.html> and ORC's web page on Human Research and IRB, at <https://researchcompliance.unm.edu/>.

For ORC's contact information and additional information, please see <https://researchcompliance.unm.edu/> .