9-10-1996

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UNM Faculty Senate

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THE UNIVERSITY OF NEW MEXICO

FACULTY SENATE MINUTES

1996-97

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THE UNIVERSITY OF NEW MEXICO
FACULTY SENATE
1996-97

ANDERSON SCHOOLS OF MANAGEMENT
Richard Reid 1996-98
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ARCHITECTURE & PLANNING
Mete Turan 1996-97

ARTS & SCIENCES
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Peter Pabich (Foreign Languages & Literatures) 1995-97
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GENERAL LIBRARY
Paul Weiss 1996-98

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William Dail (Anatomy) 1996-98
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Gregory Franchini (Psychiatry) 1996-98
Deborah Graham (Health Science Lib) 1995-97
Peggy Kelley (Surgery) 1995-97
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Philip Reyes (Biochemistry) 1996-98
Stephanie Ruby (Cell Biology) 1996-97
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NURSING
Sandra Schwanberg 1996-98

PHARMACY
Ernest Dole 1996-98

PUBLIC ADMINISTRATION
Mario Rivera 1996-98

UNIVERSITY COLLEGE
No Representative

VALENCIA
Michelle Diel 1996-98

AT LARGE
Steven Block (Music) 1996-97
Alok Bohara (Economics) 1996-98
Diane Dotts (Gallup) 1996-98
Jaime Grinberg (Education) 1996-98
Christian Joost-Gaquier (Art & Art History) 1996-98
Craig Kelsey (Physical Perf & Development) 1995-97
Donald Neamen (Electrical & Comp Engr) 1996-98
Beulah Woodfin (Biochemistry) 1996-98

Updated 8/96
wperfect senate/mbrs96-7.txt
The Faculty Senate meeting was called to order at 3:35 p.m. on September 10, 1996, in the Kiva. Senate President Beulah Woodfin presided.

Senators present: Margery Amdur (Art & Art History), Steven Block (Music), Alok Bohara (Economics), James Boone (Anthropology), Jane Bruker (Gallup), William Buss (Pharmacology), Helen Damico (English), Victor Delclos (Individual Family & Community Education), Michelle Diel (Valencia), Ernest Dole (Pharmacy), Gregory Franchini (Psychiatry), John Gahl (Electrical & Computer Engineering), Deborah Graham (Health Sciences Library), Jaime Grinberg (Education), Thomas Hagstrom (Mathematics & Statistics), William Johnson (Biology), Christiane Joost-Gaugier (Art & Art History), Peggy Kelley (Surgery), Craig Kelsey (Physical Performance & Development), Larry Lavender (Theatre & Dance), George Luger (Computer Science), Neeraj Magotra (Electrical & Computer Engineering), Wanda Martin (English), Christine Nathe (Dental Hygiene), Donald Neaman (Electrical & Computer Engineering), Elizabeth Nielsen (Education Specialities), Eric Nuttal (Chemical & Nuclear Engineering, Philip Reyes (Biochemistry), Mario Rivera (Public Administration), Stephanie Ruby (Cell Biology), Christine Sauer (Economics), Loretta Serna (Education Specialities), Avarham Shama (Anderson Schools of Management), Scott Taylor (Law), Nicole Touchet (Family & Community Medicine), Mete Turan (Architecture & Planning), Pauline Turner (Individual, Family, and Community Education), Carolyn Voss (Medicine), Holly Waldron (Psychology), Paul Weiss (General Library), Sherman Wilcox (Linguistics), Beulah Woodfin (Biochemistry), Melvin Yazawa (History), Nancy Ziegler (Gallup), and Harry Llull, ex-officio Senate Operations member, (General Library)

Senators absent: William Dail (Anatomy), Tom DeCoster (Orthopaedics), Patrick Gallacher (English), Peter Pabisch (Foreign Languages & Literatures), Richard Reid (Anderson Schools of Management), Gloria Sarto (Obstetrics & Gynecology), Sandra Schwanberg (Nursing), Russell Snyder (Neurology), Joseph Spaeth (Radiology)

Senators excused: Laura Crossey (Earth & Planetary Sciences), Diane Dotts (Gallup), John Geissman (Earth & Planetary Sciences), Jonathan Porter (History), Gerald Weiss (Physiology)

1. APPROVAL OF AGENDA
Initially, the agenda was approved as presented. Later in the meeting, agenda item #8 was amended to read “...Research Fraud Policy” instead of “...Research Policy Fraud.”
2. APPROVAL OF SUMMARIZED MINUTES (May 7, 1996)
The summarized minutes for the May 7, 1996 Election of Officers, and May 7, 1996 Last Meeting of 1995-96 Senate were approved as presented.

3. MEMORIAL MINUTE FOR PROFESSOR EMERITUS ARCHIE J. BAHM
The Memorial Minute for Professor Emeritus Archie J. Bahm was read by Professor Fred Sturm. The minute was adopted by the Senate. Professor Sturm asked the University Secretary to send copies of the Memorial Minute to the family of Archie Bahm.

Archie John Bahm (1907-1996)

Colleagues of Archie Bahm know that he was committed to open dialogue and discussion concerning issues of philosophy and social concern. He viewed his teaching, research, and publications as ways of accomplishing this.

He was born 21 August 1907 in Imlay, Michigan. Formal education included the A.B. from Albion College, with election to Phi Beta Kappa and Phi Kappa Phi, and both the M.A. and Ph.D. from the University of Michigan in 1930 and 1933.

He taught at Texas Tech (1934-1946), the University of Denver (1946-1948), and the University of New Mexico from 1948 until his retirement in 1973.

Throughout his teaching career he sought means of bringing philosophers together for dialogue, and of fostering interdisciplinary discussion. He was instrumental in founding the New Mexico/West Texas Philosophical Society, the Mountain-Plains Philosophical Association, and the University of New Mexico "21 Club".

World peace, and an accompanying global philosophy, were his passions. He travelled extensively up to the end of his life participating in world and regional congresses of philosophy. His continuing correspondence with philosophers world-wide was voluminous. Fulbright Research Fellowships took him to the University of Rangoon (1955-56) and Banaras Hindi University (1962-63).

Author of 22 books, several of which have been translated into other languages, he published many articles in professional journals here and abroad. Recently these were contributions in the field of systems analysis. The American Humanist Association named him "Humanist of the Year", and the Jiangsu Academy of Social Sciences together with the University of Nanjing recently inaugurated the Archie J. Bahm Institute for Comparative Philosophical Studies.

When he learned he had terminal cancer he worked with great intensity writing
what he knew was to be his final book. The manuscript was completed, but his last words just before dying were instructions for revisions to the final chapter.

4. PROVOST'S COMMENTS

Provost William Gordon provided information on pressing issues discussed at previous Senate meetings and an update on initiatives undertaken since then:

- The Research Services Office (formerly Office of Research Administration) has been reorganized into divisions in order to provide more efficient services to faculty in the areas of Contracts and Policy; Contracts and Information Services; Outreach Services; and Lab/Industry Relations.
- The Associate Provost for Research is conducting an analysis of how research overhead funding has been spent and evaluating it against actual needs. This will result in a comprehensive budget plan for the upcoming year.
- An Associate Dean of Graduate Studies will be named soon. It is anticipated that providing direct oversight to this office will increase efficiency in the flow of paperwork.
- The Office of the Provost is evaluating the best use of teaching resources. The University is offering too many technically under enrolled courses and too few courses that students need to pursue their degrees. I-TEL-UNM has been used for early tracking of student enrollment so that teaching assignments can be rearranged early in the process to meet student needs.
- The reorganization of University College has reached its final stage. Student advisement and tracking services are now located in the Office of Undergraduate Studies. University College now houses the BUS program and General Honors and may eventually house other interdisciplinary units.
- Budget reallocation within Academic Affairs has resulted in new library acquisitions; GAITA salary increases of 7%; opened up new GAITA positions; established a special fund for faculty promotion salary increases; and devoted funding for student recruitment and retention.
- The process of establishing student outcomes assessment throughout campus is moving forward. Deans will be receiving specific information soon.
- An academic master plan for Academic Affairs will be developed and will indicate specific steps to be taken in order to meet the objectives of UNM 2000, the University’s master plan.

5. APPROVAL OF SUMMER SESSION 1996 DEGREE CANDIDATES

The Senate approved the Summer Session 1996 degree candidates list as presented.

6. APPROVAL OF CHANGES TO COMMITTEE 1996-97 MEMBERSHIP LIST

Changes to the Faculty Senate 1996-97 Committees membership list were approved by the Senate. These are changes and additions to the preliminary
listing approved at the April 9 meeting of the Senate.

7. FORM C FROM THE CURRICULA COMMITTEE
The curricula request for a new Associate of Arts degree in School Health Promotion from the HPPELP at the Gallup branch was tabled until the October 8 Senate meeting. Representatives from the Gallup branch were not available to answer questions Senators had regarding the request. Gallup representatives will be invited to the next Senate meeting to respond to questions.

8. RESEARCH POLICY COMMITTEE REPORT ON THE INTERIM RESEARCH FRAUD POLICY
Bernard Moret, Chair of the Research Policy Committee presented the revised Research Fraud Policy for discussion. The Committee reviewed and approved the revisions which were a result of Federal Agency actions mandating changes to UNM's Research Fraud Policy as it exists in the Faculty Handbook. A memo from Robert Bienstock, Associate University Counsel, along with two sets of revisions were distributed to Senators prior to this meeting. The first set of changes was required by revisions to the research fraud regulations of the NIH and of the NSF in 1995. The second set of changes was due to a review of the current policy of the Office of Research Integrity. Discussion ensued and concerns were expressed that the person accused of fraud be notified early on in the process. A motion, made by Senator Shama and seconded by Senator Rivera, to amend the last sentence of Section IV.A.1 on page 5 to delete the period after "...as appropriate", then adding "and inform the accused." was approved by the Senate. The Senate then voted to approve the policy as amended.

9. CORE CURRICULUM
Charlie Steen, Chair of the Core Curriculum Task Force, led a discussion on the status of the development of a core curriculum for UNM. The previous approach taken by the committee to establish core courses has become a very confused process. The core curriculum document prepared by the committee has brought forth many recommendations and numerous suggestions. Some departments have not been able to define their core courses. Other departments want too many core courses. As an alternative Chair Steen, at the suggestion of Provost Gordon, is requesting each department to identify a single block of courses that represents the values of their department, and make recommendations to the committee. Some senators expressed concern at the length of time it is taking to develop a core curriculum proposal. It was requested that Chair Steen distribute his latest core curriculum notes to the faculty and Faculty Senate. Chair Steen asked that recommendations and suggestions be communicated directly to him.

10. ANNOUNCEMENTS - SENATE PRESIDENT
Senate President Woodfin made the following announcements:
Senators are asked to fill out a Preference Sheet indicating their willingness to serve as representatives to Faculty Senate Standing Committees. Some committees are still lacking senate representation. The Preference Sheet distributed at this meeting should be returned to the Office of the University Secretary as soon as possible.

Faculty interested in serving on a task force which will review the role of part-time faculty to determine their representation, resources, and benefits should contact Senate President Woodfin.

A task force is being developed to form a revised method for the evaluation of administrators. Interested faculty should contact Senate President Beulah Woodfin.

The development of a faculty dispute resolutions process will be addressed by the Senate this year.

Finalists for the Associate Dean of Graduate Studies will be interviewed on September 18, 1996.

One more faculty volunteer is needed to serve on the task force which will assist the University Secretary in coordinating the updating all sections, except section B, of the Faculty Handbook. Section B, Conditions of Employment, is being updated by the Academic Freedom and Tenure Committee. Interested faculty should contact the University Secretary.

A general faculty meeting will be held on Tuesday, September 24 at 3:30 p.m., in the Kiva for discussion of the constitutional amendment, proposed by the Committee on Governance, regarding the definition of voting faculty. A mail ballot to all voting faculty will follow soon after the meeting.

The Regents of the University of Minnesota have passed drastic changes to the tenure policy for faculty, without regard to faculty input. The American Association of University Professors is following this issue closely.

11. NEW BUSINESS
Senator Yazawa inquired whether President Peck has been invited to attend future Faculty Senate meetings. Senate President Woodfin said the Senate Operations has extended an invitation to President Peck. She will follow up for a response.

12. ADJOURNMENT
The meeting adjourned at 5:05 p.m.

Respectfully submitted by:

Mari A. Ulibarri
Administrative Assistant
Office of the University Secretary

Approved by:

Vivian Valencia
University Secretary
Federal agency actions have mandated changes to UNM’s Research Fraud Policy, which is published in the Faculty Handbook at page D-12. The first set of changes was required by revisions to the research fraud regulations of the NIH and of the NSF in 1995. The second set of changes was triggered by a review of our current policy by the Office of Research Integrity. A few changes were also made to improve clarity, logic, and consistency. The proposed revised policy has been reviewed and approved by the Faculty Research Policy Committee and this office. A copy is attached, along with copies of the federal regulations and the ORI review. The revisions that were made to the Policy are explained in detail below, with the changes due to the ORI’s comments specifically noted as such.

Section I. In the final paragraph of the Introduction to the Policy, we have added language requested by the ORI to the effect that the Policy applies to all individuals involved in a research project.

Section II. The ORI requested that we expand the definition of research fraud to include “proposing, conducting, and reporting of sponsored and unsponsored research.”

Section III.B. We cannot refuse to act upon charges of research fraud whenever the person who reports it does not fully identify him or herself. First, as a matter of policy, if any UNM official were to receive anonymous but solid evidence of research fraud, it would be incumbent upon that official to pursue it. The official would be obliged both on behalf of the institution in order to determine if research fraud had occurred, and on behalf of the accused to provide an opportunity to clear his or her name. Second, the follow-up is
required by both the NIH and NSF regulations. The NIH regulations require us to take "immediate and appropriate action as soon as misconduct . . . is suspected or alleged," 42 CFR § 50.103(c)(3), and require us to "protect[] to the maximum extent possible, the privacy of those who in good faith report apparent misconduct," 42 CFR § 50.103(d)(2). The NSF regulations similarly rely on us to "initiate an inquiry into any suspected or alleged misconduct," 42 CFR § 689.3(a)(1).

Section III.C. The NSF regulations define as "misconduct" "retaliation of any kind against a person who reported or provided information about suspected or alleged misconduct and who has not acted in bad faith." 45 CFR § 689.1(a)(2). Thus, we can take action against someone who reports information only if the information was reported in bad faith. We have revised the sentence about "persons making intentionally dishonest, malicious, or irresponsible allegations." The bad faith rule clearly permits action against persons making intentionally dishonest or malicious allegations. It is less clear with respect to people making irresponsible allegations, even if the "intentionally" modifies "irresponsible." Due to this, we have incorporated the regulations' bad faith standard into our Policy. Note the "intentionally dishonest, malicious, or irresponsible" standard has been changed throughout our Policy, in Sections IV.B.3, IV.C.8, and IV.D.3.

Section III.D. At the request of the ORI, we have changed "faculty members, staff, and students" to "members of the University community."

Section IV.A.1. Here, and throughout the document, we have updated the titles of Vice President for Research or Director of the Medical Center to Associate Provost for Research or Vice President for Health Sciences.

The last paragraph of Section IV.A.1 was added to discuss allegations of research fraud involving threats to health and safety. In response to the ORI, research fraud involving threats to health and safety. In response to the ORI, we added, "if the research was funded by the NIH or by the PHS, [we] shall notify the sponsoring agency."

Section IV.B.1. In response to the ORI, we have inserted in Section IV.B.1 the same language as we used in the section for formal investigations (Section IV.C.1): "Committee members should be selected on the basis of relevant research background and experience," etc.

Section IV.B.2. There was a gap between the two possible findings of the Inquiry Committee: "prima facia responsible and have substance" and "irresponsible, trivial, or clearly insubstantial." It was possible that the "irresponsible, trivial, or clearly insubstantial." It was possible that the Committee could find that the allegations neither had substance nor were clearly insubstantial. The word "clearly" was deleted to help close that gap.
Memorandum to Faculty Senate
September 3, 1996
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Section IV.B.3. At the request of the ORI, we added, "If the period [of the
inquiry into the research fraud allegation] is extended, the record of the inquiry
shall include documentation of the reasons for extending beyond the sixty day
period."

Section IV.B.4. The NIH rules require the accused person to be given a copy of
the inquiry report regardless of its conclusions, and to be given an opportunity
to add his or her comments to the report. 42 CFR § 50.103(d)(1).

The same section also specifies that the content of the report must include (1) a
summary of the evidence reviewed, (2) a summary of relevant interviews, and
(3) the conclusions of the inquiry. This requirement has been incorporated into
our Policy.

Section IV.C.1. A gap was caused by the requirement that the investigation go
forward only if the Inquiry Committee vote is unanimous—what if the
Committee could not make a unanimous decision? We would be remiss and
possibly inconsistent with the regulations if a majority of the Committee found
the allegations worth investigating, and we did not do so. It would also taint
the accused person's reputation, with no opportunity for vindication. For these
reasons, the requirement of unanimity was eliminated in Section IV.C.1.

This section requires an Inquiry Committee composed of five tenured UNM
faculty members with relevant research backgrounds and experience. Given
the increasingly specialized nature of research, this may be impossible.
Accordingly, a provision has been added allowing for off-campus Committee
members when appropriate. The approval for off-campus Committee members
was placed with the Associate Provost for Research or Vice President for Health
Sciences, as appropriate.

The penultimate sentence in this section concerns notifying a sponsoring
agency of UNM's decision to commence an investigation. At the request of the
ORI, we have added the words "prior to commencing the investigation" at the
end of that sentence.

The NIH requires that the investigation begin within thirty (30) days after the
conclusion of the inquiry. 42 CFR § 50.103(d)(7). We have included this
requirement at the end of this section.

Section IV.C.5. The NIH regulations set specific rules for witness interviews.
They require that "complete summaries of these interviews should be prepared,
provided to the interviewed party for comment or revision, and included as part
of the investigatory file." 42 CFR § 50.103(d)(7). We defined the scope of
verbatim transcripts as being for hearings and witness interviews. While this will be quite expensive, it would provide valuable record keeping and data. On the other hand, we did not provide for transcripts of document delivery, site visits, and tests, as these do not seem useful, nor for deliberations, as to which confidentiality is important.

Sections IV.C.6 and IV.C.8. We want to give the Committee the right to make revisions to its findings based upon the accused's comments. Ditto for the comments of the accuser in subsection 8.

Section IV.C.9. At the request of the ORI, we have revised this section on the duration of the investigation to read as follows:

The investigation shall be completed within 180 days. If the research was sponsored by the PHS, the investigation shall be completed within 120 days, unless PHS grants an extension pursuant to 42 CFR § 50.104(a)(5).

Section IV.D.1. The NSF rules expect that we will send a copy of the final report to the NSF, 45 CFR § 689.3(b)(4). The NIH requires not only that its Office of Scientific Integrity (OSI) gets a copy of the report, but also that the accused and accuser get preliminary copies and an opportunity to make comments. The accuser need be provided with only portions of the report. 42 CFR § 50.104(a)(2). Our Policy has been revised accordingly.

Section IV.D.3. In this section, at the request of the ORI, we added a sentence at the end to clarify what happens to evidentiary material when the Inquiry Committee does not find research fraud, as follows: "Such documentation shall be made available to the sponsor of the research where required by law."

Section IV.E. The NIH regulations have records retention requirements for inquiry documentation. They require our rules to mandate a three-year retention period after the termination of the inquiry. This is the case especially if the inquiry does not lead to an investigation. 42 CFR § 50.103(d)(6). Although the NIH regulations require only a three-year retention period, a five-year period is more prudent.

Section IV.F and Its Subparts. This section on compliance with federal policies has been expanded, in part due to the ORI's comments, to include more detail about the reporting requirements of the federal sponsoring agencies.
Former Section IV.1.4. We deleted the statement that final agency rules should be appended to the policy (and a cross-reference to it earlier in the Policy) because realistically we have no means of regularly updating an appendix containing all relevant federal regulations. Not only is this misleading, but we could be accused of luring researchers into unsuspecting noncompliance with their sponsored agency rules.

/pmd

cc: Beulah Woodfin, Faculty Senate President
    Bernard Moret, Faculty Research Policy Committee
I. INTRODUCTION

Integrity, trust, and respect are important elements in an academic research environment. Investigators typically conduct research and explain findings and theories with painstaking diligence, precision, and responsibility. However, a growing number of cases involving research fraud threaten to both erode the public trust and cast doubt on the credibility of all researchers.

Because the University of New Mexico as well as the general public and government are affected by this issue, the University has decided to take steps to deal with research fraud if it arises and to ensure the credibility and objectivity of research activities. These steps are, in broad terms, to:

- Ensure that ethical standards for research at UNM are clearly understood and applied.
- Promptly inquire into allegations of fraud and, where appropriate, initiate formal investigations and advise sponsors of action taken.
- Ensure that each investigation is properly documented to support findings and carefully conducted to protect any person whose reputation may be placed at risk during the process.
The policy and procedures regarding research fraud are intended to protect the integrity of the University's research enterprise and not hinder the search for truth or interfere with academic freedom.

This Policy applies to all individuals who may be involved with a research project, including, but not limited to, faculty, graduate/undergraduate students, staff, employees, contractors, visiting scholars, and any other member of the academic community at the institution who may be involved with a research project.

II. DEFINITION

"Research fraud" or "fraud" applies to the proposing, conducting, and reporting of sponsored and unsponsored research and means: intentional fabrication, falsification, misrepresentation, theft, or plagiarism concerning research results, activities, and related documentation; it also means gross carelessness in conducting research amounting to wanton disregard of truth or objectivity; or failure to comply or at least attempt to comply with material and relevant aspects of valid statutory or regulatory requirements governing the research in question. Research fraud is not an error in judgment, a misinterpretation of experimental results, an oversight in attribution, a disagreement with recognized authorities, a failure in either inductive or deductive reasoning, or an error in
planning or carrying out experiments, a calculation mistake, or being wrong or ignorant.

III. Policy GENERAL PRINCIPLES

A. Research fraud cannot be tolerated and will be firmly dealt with when clearly shown to be present.

B. Charges of research fraud by persons who do not fully identify themselves shall not be acted upon. Charges from a properly identified party of research fraud shall be promptly reviewed and a copy of this Policy shall be made available to such the charging party. If health or safety is involved, prompt remedial action shall be taken. The charges shall be treated at ascending levels of formality to minimize distraction from normal activities and permit the taking of action tailored to the authenticity and seriousness of the charges and the nature and extent of the misconduct.

C. Every effort shall be made to protect the rights and the reputations of everyone involved, including the individual who in good faith alleges perceived misconduct as well as the alleged violator(s). However, persons making intentionally dishonest, malicious, or irresponsible allegations in bad faith shall be severely dealt with and may be subject to dismissal as well as criminal and/or civil legal action.
D. All faculty members, staff, and students members of the University community are expected to cooperate with committees conducting inquiries or investigations. Care will be exercised at all times to ensure confidentiality to the maximum extent possible and to protect the safety and privacy of persons involved in the research under inquiry or investigation. Files involved in an Inquiry or Formal Investigation shall be kept secure and not retrievable by personal identifiers, and applicable State and Federal law shall be followed regarding confidentiality of personnel records.

IV. PROCEDURES

A. Processing Initial Allegations of Research Fraud

1. An initial report of alleged fraud shall be treated and brought in a confidential manner to the attention of the faculty member or other person (e.g., chairperson, supervisor, director, principal investigator) responsible for the researcher(s) whose actions are in question. (Accuser may wish to seek counsel prior to bringing charges.) That faculty member or other person shall, in turn, make an immediate confidential report of the allegations to the Vice President for Research, or the Director of the Medical Center, Associate Provost for Research, or Vice President for Health Sciences, as appropriate. The Vice President for Research or the Director of the Medical Center Associate Provost for Research or Vice President for Health Sciences may at their discretion and as
they deem appropriate inform the accused of the charges and, if the accuser consents, of the identity of the accuser. The Vice President for Research or the Director of the Medical Center acting as appropriate through deans, chairpersons or directors shall take immediate corrective action if a threat to health or safety is involved.

If a threat to health or safety is involved, the Associate Provost for Research or Vice President for Health Sciences acting as appropriate through deans, chairpersons or directors shall take immediate corrective action, and, if the research was funded by the NIH or by the PHS, shall notify the sponsoring agency.

2. The Vice President for Research or the Director of the Medical Center Associate Provost for Research or Vice President for Health Sciences shall promptly review the allegation and prepare an initial finding. (Note: "Finding" as used herein means a written document containing a full explanation of the facts and the reasoning which supports a decision of innocence or violation.) The Vice President for Research or the Director of the Medical Center Associate Provost for Research or Vice President for Health Sciences may appoint an ad hoc Committee for this purpose. Such Committee shall consist of three faculty members at least two of whom including the chairperson shall be tenured. Deans, chairpersons, and directors shall be eligible for appointment to such Committee. Should the allegation be considered frivolous or unfounded by the Vice President for Research or the Director of the Medical Center Associate Provost for Research or the Director of the Medical Center Associate Provost for Research or Vice President for Health Sciences they may deny the request for a subsequent review.
Provost for Research or Vice President for Health Sciences, the person bringing the charges shall be so informed and appropriate further inquiry made, if necessary, concerning the accuser's motivation or responsibility. The Vice President for Research or Director of the Medical Center Associate Provost for Research or Vice President for Health Sciences shall take disciplinary action against the accuser if appropriate or recommend administrative sanctions or criminal or civil legal action to the President.

B. Inquiry

1. If from the report and initial finding the Vice President or Director of the Medical Center Associate Provost for Research or Vice President for Health Sciences believes that allegations warrant further inquiry, the Vice President for Research or Director of the Medical Center Associate Provost for Research or Vice President for Health Sciences shall provide a copy of the finding to the President and shall appoint an Inquiry Committee of three persons other than persons previously serving as ad hoc Committee members. At least two Committee members shall be tenured faculty. One of the tenured faculty members shall chair the Committee. Committee members should be selected on the basis of relevant research background and experience. With the approval of the Associate Provost for Research or Vice President for Health Sciences, appropriate, faculty members from other universities may be named to the Committee if a sufficient number of qualified and neutral UNM faculty members are not available. Care shall be taken to ensure that no Committee member
2. The Inquiry Committee shall promptly review the initial report and finding and other available information on a preliminary basis. If, based on this preliminary review, the Committee believes that the Inquiry should be dropped because the allegations are irresponsible, trivial, or clearly insubstantial, the Committee shall submit a finding to that effect to the Vice-President for Research or the Director of the Medical-Center Associate Provost for Research or Vice President for Health Sciences, as appropriate, and to the President, and the Inquiry shall be terminated preferably without any notice or publicity whatsoever, except for action as in A.2. if appropriate. If, however, the Inquiry Committee believes the allegations are prima facie responsible and have substance, the Committee shall notify the sponsoring agency if appropriate under the agency's criteria, and each person accused of fraud shall be advised by the Vice-President for Research or the Director of the Medical-Center Associate Provost for Research or Vice President for Health Sciences in writing of (a) the allegations, (b) the identity of the accuser, (c) the identity of the Committee members, (d) the right to retain private counsel, and (e) the need to retain all documents, records, tapes, etc., relating to the research in question in unaltered condition.

3. The length of the inquiry shall not exceed sixty days unless prior written approval for a longer period is obtained from the Vice-President for Research or the
Director of the Medical Center Associate Provost for Research or Vice President for Health Sciences. If the period is extended, the record of the inquiry shall include documentation of the reasons for exceeding the sixty day period. After completion of the inquiry, the Inquiry Committee's finding shall be provided to the Vice President for Research or the Director of the Medical Center and to the President. [Note: Similar text inserted in the following section] -If the Inquiry Committee's finding is that the allegations lack sufficient substance or support to justify a formal investigation, the individual(s) who reported the alleged fraud and the accused shall be so notified in writing by the Committee Chairperson.

4. The Inquiry Report shall include (a) a summary of the evidence reviewed, (b) a summary of relevant interviews, and (c) the conclusions of the inquiry. The accused shall be given an opportunity to add his or her comments to the report and have those comments distributed with the original. After completion of the Inquiry, the Inquiry Committee's finding shall be provided to the Associate Provost for Research or Vice President for Health Sciences, the President, the Individual(s) who reported the alleged fraud and to the accused.

5. All University personnel involved in or contacted in connection with the inquiry shall be informed in writing of the results and shall refrain from making any comments on the matter whatsoever outside of Committee business unless authorized in writing by the Committee Chair. If in its finding the Committee also determines that the charges were dishonest, malicious, or irresponsible, made in bad faith, the Vice-President for Research or the Director of the Medical Center
C. Formal Investigation

1. If the Inquiry Committee unanimously recommends in writing to the Vice President for Research or Director of the Medical Center Associate Provost for Research or Vice President for Health Sciences that a formal investigation is warranted, the Vice President for Research or the Director of the Medical Center Associate Provost for Research or Vice President for Health Sciences, as appropriate, shall appoint in consultation with the University President an Investigation Committee of five tenured faculty members including the chairperson. No person shall be appointed to the Investigation Committee who was ineligible for or who served on the Inquiry Committee, or who has any potential or actual conflict of interest with the persons under investigation or with the accuser. Committee members should be selected on the basis of relevant research background and experience. With the approval of the Associate Provost for Research or Vice President for Health Sciences, as appropriate, faculty members from other universities may be named to the Committee if a sufficient number of qualified and neutral UNM faculty members are not available. If required by sponsoring agency regulations, the University shall notify the agency of its decision to commence an investigation prior to
commencing the investigation. The investigation shall begin within thirty (30) days after the conclusion of the inquiry.

2. Each researcher under investigation shall be apprised of the allegations in writing, of the identity of the members of the Investigation Committee, and of the right to retain private legal counsel. The accused person(s) as a whole and the accuser(s) as a whole shall each have the right to challenge the appointment of one member. Such challenge shall be made in writing to the chairperson within 10 days of notification of the identity of members. Upon receipt of the challenge the chairperson shall promptly appoint another member to replace the challenged member and notify all parties of the member's identity. Further, the accused person or persons as a whole shall be accorded the right to select one person not under investigation having technical expertise to assist the Committee. Such person shall be appointed to the Committee as a non-voting member and shall be subject to all rules adopted by the Investigation Committee including requirements for confidentiality.

3. During the investigation University legal counsel shall be available to the Committee for consultation. Information concerning the research under investigation such as laboratory notebooks and related records of research activities, topical, technical, and summary reports, drafts of unpublished manuscripts and related data and materials shall be made available as requested by the Committee.
4. The Committee shall hold all meetings in confidence unless open meetings are approved in writing by the President. The Committee from time to time shall inform each accused person under investigation of its general progress. Accused persons under investigation shall be treated as innocent of the charges at all times until and unless duly found to be in violation. Accused persons shall be afforded the opportunity to respond to the charges and to questions posed by the Committee and to provide additional information or explanations voluntarily. In response to a request by the accused or on the Committee's own initiative, it shall be a matter of the Committee's sole discretion subject to written approval of the President as to whether and how the accused and accuser should confront each other, or the case should be publicized. Factors to be considered in recommending such disclosure, confrontation, or publication shall include a) the behavior and actions of the accused and accuser, b) regulatory requirements of the sponsoring agency or contractual provisions governing the research, c) whether in view of the nature of the case the proposed action would enhance impartiality, objectivity, and fairness in the manner of conducting the Committee's proceedings and in reaching a just decision, and d) the relationship of the University's investigative efforts to criminal or civil court proceedings or to investigative efforts by the sponsor.

5. The Committee may in its discretion for itself or on behalf of the accused or accuser require delivery of documents, interview witnesses, take depositions or signed statements of witnesses, obtain evidence, visit sites, and replicate tests.
The Committee may also hold hearings, and the Committee shall maintain a verbatim written record of all proceedings, witness interviews, and hearings. Each witness shall be provided transcripts of the interview for comment or revision, which shall become part of the investigatory file. Courtroom proceedings may be followed at the discretion of the Committee. The President or President's designee may be present at any proceeding or meeting of the Committee.

6. A finding that a person has committed research fraud shall require a unanimous vote of the Investigation Committee. The accused person shall have fourteen days to provide comments on the finding to the Committee. The Committee may change its vote, report, and/or finding based upon the comments.

7. If a unanimous vote of the Committee for a finding of research fraud is not obtained, then the person under investigation is innocent of research fraud.

8. The Committee may also recommend separately or with the above findings that, because in its unanimous opinion the allegations of fraud appear to be malicious, intentionally dishonest, or irresponsible have been made in bad faith, a further investigation of the accuser should be initiated. Alternatively, the Committee may actually find by unanimous vote that the allegations of research fraud were malicious, intentionally dishonest, or irresponsible made in bad faith. In such instance, the accuser shall have fourteen days to provide written comments thereon to the Committee. The Committee may change its vote, report, and/or finding based upon the comments.
9. The findings in 6, 7, or 8 above and the comments of the accused and/or accuser as applicable shall be included in a final written report of the Committee signed by all voting members which shall be submitted to the President. The investigation shall be completed within 180 days. If the research was sponsored by the PHS, the investigation shall be completed within 120 days, unless PHS grants an extension pursuant to 42 C.F.R. § 50.104(a)(5).

D. Action Following Investigation

1. The final report shall be made available to the sponsoring agency, the person(s) accused, and appropriate portions to the accuser(s).

2. If the Committee finds research fraud, the University shall take the following actions as required or appropriate:

   a) Notify the sponsoring agency of the findings;

   b) Take steps to withdraw, retract, modify, or explain all pending and previously published abstracts and papers related to the fraudulent research and to alert publishers, organizations, and the public to the affected research;

   c) Take or initiate appropriate disciplinary action (e.g., dismissal proceedings) as well as administrative, criminal, or civil legal action concerning the persons found to have committed research fraud; and

   d) Take any other steps deemed appropriate to accomplish justice and preserve the integrity of the University and the credibility of the Sponsor's program.
23. If the Committee does not find research fraud, efforts will be undertaken to the extent possible and appropriate by the University to fully protect, restore, or maintain the credibility of the research project, research results, and the reputation of the accused, the sponsor, and others who were involved in the investigation or deleteriously affected thereby. Evidentiary material, documents, etc., shall be disposed of in accordance with University Counsel's advice. Such documentation shall be made available to the sponsor of the research where required by law.

24. If the Committee further finds that a party's allegations were malicious, intentionally dishonest, or irresponsible made in bad faith, steps shall be taken by the University to further investigate the party and take appropriate disciplinary or legal action. If such party is not associated with the University, appropriate organizations or authorities shall be notified and administrative or legal action considered.

45. The Board of Regents in the pursuit of justice and fairness may, in its sole discretion, fully or partially reimburse the accused and/or the accuser for legal fees in cases of unusual hardship.

5. Document Retention

All documentation of an inquiry that does not lead to an investigation shall be maintained for at least three (3) years after the conclusion of the inquiry, and
shall be provided to the sponsoring agency upon request if required by the agency's regulations. All documentation of the investigation shall be maintained for five (5) years after the end of the investigation.

Compliance with Federal Policies

Faculty members or others who are on the staff of the Veterans Administration Medical Center or who perform clinical, medical, or other specialized research under the aegis of UNM must also comply with federal policies and guidelines which govern such work. See paragraph 1 below. The Committees shall cooperate with the University in meeting various federal agency reporting requirements regarding their inquiries or investigations. In particular, the National Science Foundation (see 45 C.F.R. Part 689.3(b)) and the OS/NIH/PHS (see 42 C.F.R. Part 50,103, 104) have special reporting requirements.

Faculty members or others who are on the staff of the Veterans Administration Medical Center or who perform clinical, medical, or other specialized research under the aegis of UNM must also comply with federal policies and guidelines which govern such work. See paragraph 1 below. The Committees shall cooperate with the University in meeting various federal agency reporting requirements regarding their inquiries or investigations. In particular, the special reporting requirements of the National Science Foundation (see 45 C.F.R. Part 689.3(b)) and the OS/NIH/PHS (see 42 C.F.R. Part 50,103, 104) shall be complied with.
2. If the Research was funded by the PHS, the following notification requirements shall be followed:

2.a. ORI shall be notified at any stage of the inquiry or investigation if any of the following conditions exist:

   - an immediate health hazard involved
   - an immediate need to protect federal funds or equipment
   - an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is/are the subject of the allegations as well as his/her co-investigators and associates, if any
   - a probability that the alleged incident is going to be reported publicly
   - a reasonable indication of possible criminal violation (notification of ORI within 24 hours).

2.b. If an inquiry or investigation is terminated without completing all required steps, a report of such planned termination, including a description of reasons, shall be made to ORI.

2.c. ORI shall be promptly advised of any developments during the course of an investigation that disclose facts that may affect current or potential PHS funding for individual(s) under investigation or that the PHS needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest.
The final report to ORI shall describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings, and include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, as well as a description of any sanctions taken by the institution.

Distribution of this Document
Present faculty and staff shall be given copies of this document as soon as possible. New faculty and staff shall be issued a copy at the time of initial employment, and dissemination shall be made to students in an appropriate manner.

Continuing Review of Policy
These University policies and procedures relating to ethical conduct of research and investigation of allegations of fraud shall be under continuing review and modified in light of the experience gained. Suggestions for revision should be sent to the Research Policy Committee.

Treatment of Federal Agencies' Final Rules
1. As federal agencies issue their own final rules on misconduct in science which set forth the duties and responsibilities of their awardee and applicant institutions, such final rules will govern where applicable.
2. It shall be the responsibility of each individual, unit, or group involved in applying for, receiving, or working under, grants or contracts with the federal agency to be familiar with that agency’s final rule on misconduct in science.

3. Questions concerning the applicability of a federal agency final rule in matters of misconduct in science shall be referred to the University Counsel for resolution.

4. Agency final rules shall be appended hereto for record purposes.

Previous version approved by UNM Faculty Senate, April 11, 1989; Ratified by the Regents, November 14, 1989

/pmd
THE UNIVERSITY OF NEW MEXICO
RESEARCH FRAUD POLICY

INTRODUCTION

Integrity, trust, and respect are important elements in an academic research environment. Investigators typically conduct research and explain findings and theories with painstaking diligence, precision, and responsibility. However, a growing number of cases involving research fraud threatens both to erode the public trust and to cast doubt on the credibility of all researchers.

Because the University of New Mexico as well as the general public and government are affected by this issue, the University has decided to take steps to deal with research fraud if it arises and to ensure the credibility and objectivity of research activities. These steps are, in broad terms, to:

--- Ensure that ethical standards for research at UNM are clearly understood and applied.

--- Promptly inquire into allegations of fraud and, where appropriate, initiate formal investigations and advise sponsors of action taken.

--- Ensure that each investigation is properly
documented to support findings and carefully
conducted to protect any person whose
reputation may be placed at risk during the process.

The policy and procedures regarding research fraud are intended to
protect the integrity of the University's research enterprise and not hinder
the search for truth or interfere with academic freedom.

This Policy applies to all individuals who may be involved with a research
project, including, but not limited to, faculty, graduate/undergraduate
students, staff, employees, contractors, visiting scholars, and any other
member of the academic community at the institution who may be
involved with a research project.

DEFINITION

"Research fraud" or "fraud" applies to the proposing, conducting and
reporting of sponsored and unsponsored research and means:
intentional fabrication, falsification, misrepresentation, theft, or plagiarism
concerning research activities, results, and related documentation; it also
means gross carelessness in conducting research amounting to wanton
disregard of truth or objectivity, or failure to comply or at least attempt to
comply with material and relevant aspects of valid statutory or regulatory
requirements governing the research in question. "Research fraud" is not
an error in judgment, a misinterpretation of experimental results, an oversight in attribution, a disagreement with recognized authorities, a failure in either inductive or deductive reasoning, an error in planning or carrying out experiments, a calculation mistake, or being wrong or ignorant.

III. GENERAL PRINCIPLES

III.A. Research fraud cannot be tolerated and will be firmly dealt with when clearly shown to be present.

III.B. Charges of research fraud shall be promptly reviewed and a copy of this Policy shall be made available to the charging party. If health or safety is involved, prompt remedial action shall be taken. The charges shall be treated at ascending levels of formality to minimize distraction from normal activities and permit the taking of action tailored to the authenticity and seriousness of the charges and the nature and extent of the misconduct.

III.C. Every effort shall be made to protect the rights and the reputations of everyone involved, including the individual who in good faith alleges perceived misconduct as well as the alleged violator(s). However,
persons making allegations in bad faith shall be severely dealt with and may be subject to dismissal as well as criminal and/or civil legal action.

III.D. All members of the University community are expected to cooperate with committees conducting inquiries or investigations. Care will be exercised at all times to ensure confidentiality to the maximum extent possible and to protect the safety and privacy of persons involved in the research under inquiry or investigation. Files involved in an Inquiry or Formal Investigation shall be kept secure and not retrievable by personal identifiers, and applicable State and Federal law shall be followed regarding confidentiality of personnel records.

IV. PROCEDURES

IV.A. Processing Initial Allegations of Research Fraud

IV.A.1. An initial report of alleged fraud shall be treated and brought in a confidential manner to the attention of the faculty member or other person (e.g., chairperson, supervisor, director, principal investigator) responsible for the researcher(s) whose actions are in question. (Accuser may wish to seek counsel prior to bringing charges.) That faculty member or other person shall, in turn, make an immediate confidential report of
IV.2. The allegations to the Associate Provost for Research or Vice President for Health Sciences, as appropriate.

If a threat to health or safety is involved, the Associate Provost for Research or Vice President for Health Sciences, acting as appropriate through deans, chairpersons or directors, shall take immediate corrective action, and, if the research was funded by the NIH or by the PHS, shall notify the sponsoring agency.

IV.A.2. The Associate Provost for Research or Vice President for Health Sciences shall promptly review the allegation and prepare an initial finding. (Note: "Finding" as used herein means a written document containing a full explanation of the facts and the reasoning which supports a decision of innocence or violation.) The Associate Provost for Research or Vice President for Health Sciences may appoint an ad hoc Committee for this purpose. Such Committee shall consist of three faculty members at least two of whom including the chairperson shall be tenured. Deans, chairpersons, and directors shall be eligible for appointment to such Committee. Should the allegation be considered frivolous or unfounded by the Associate Provost for Research or Vice President for Health Sciences, the person bringing the charge shall be so informed and appropriate further inquiry made, if necessary, concerning the accuser's motivation or responsibility. The Associate Provost for Research or Vice
IV.B. President for Health Sciences shall take disciplinary action against the accuser if appropriate or recommend administrative sanctions or criminal or civil legal action to the President.

IV.B.1. Inquiry

If from the report and initial finding the Associate Provost for Research or Vice President for Health Sciences believes that allegations warrant further inquiry, the Associate Provost for Research or Vice President for Health Sciences shall provide a copy of the finding to the President and shall appoint an Inquiry Committee of three persons other than persons previously serving as ad hoc Committee members. At least two Committee members shall be tenured faculty. One of the tenured faculty members shall chair the Committee. Committee members should be selected on the basis of relevant research background and experience. With the approval of the Associate Provost for Research or Vice President for Health Sciences, as appropriate, faculty members from other Universities may be named to the Committee, if a sufficient number of qualified and neutral UNM faculty members are not available. Care shall be taken to ensure that no Committee member has a potential or actual conflict of interest with the researcher(s) under investigation or with the accuser. All Committee meetings shall be held in confidence in a secure area.
IV.3.2. The Inquiry Committee shall promptly review the initial report and finding and other available information on a preliminary basis. If, based on this preliminary review, the Committee believes that the Inquiry should be dropped because the allegations are irresponsible, trivial, or insubstantial, the Committee shall submit a finding to that effect to the Associate Provost for Research or Vice President for Health Sciences, as appropriate, and to the President, and the Inquiry shall be terminated preferably without any notice or publicity whatsoever, except for action as in A.2. If appropriate. If, however, the Inquiry Committee believes the allegations are prima facie responsible and have substance, the Committee shall notify the sponsoring agency if appropriate under the agency's criteria, and each person accused of fraud shall be advised by the Associate Provost for Research or Vice President for Health Sciences in writing of (a) the allegations, (b) the identity of the accuser, (c) the identity of the Committee members, (d) the right to retain private counsel, and (e) the need to retain all documents, records, tapes, etc., relating to the research in question in unaltered condition. 

IV.3.3. The length of the Inquiry shall not exceed sixty days unless prior written approval for a longer period is obtained from the Associate Provost for Research or Vice President for Health Sciences. If the period is extended,
the record of the inquiry shall include documentation of the reasons for exceeding the sixty day period.

IV.B.4.

The Inquiry Report shall include (a) a summary of the evidence reviewed, (b) a summary of relevant interviews, and (c) the conclusions of the inquiry. The accused shall be given an opportunity to add his or her comments to the report, and have those comments distributed with the original. After completion of the inquiry, the Inquiry Committee's finding shall be provided to the Associate Provost for Research or Vice President for Health Sciences, the President, the individual(s) who reported the alleged fraud and to the accused.

IV.B.5.

All University personnel involved in or contacted in connection with the inquiry shall be informed in writing of the results and shall refrain from making any comments on the matter whatsoever outside of Committee business unless authorized in writing by the Committee Chair. If in its finding the Committee also determines that the charges were made in bad faith, the Associate Provost for Research or Vice President for Health Sciences, or, if necessary, the President, shall take appropriate disciplinary or legal action such as proceedings leading to dismissal of the person making the charges or referral of the matter for criminal or civil legal action.
IV.C. **Formal Investigation**

IV.C.1. If the Inquiry Committee recommends in writing to the Associate Provost for Research or Vice President for Health Sciences that a formal investigation is warranted, the Associate Provost for Research or Vice President for Health Sciences, as appropriate, shall appoint in consultation with the University President an Investigation Committee of five tenured faculty members including the chairperson. No person shall be appointed to the Investigation Committee who was ineligible for or who served on the Inquiry Committee, or who has any potential or actual conflict of interest with the persons under investigation or with the accuser. Committee members should be selected on the basis of relevant research background and experience. With the approval of the Associate Provost for Research or Vice President for Health Sciences, as appropriate, faculty members from other Universities may be named to the Committee, if a sufficient number of qualified and neutral UNM faculty members are not available. If required by sponsoring agency regulations, the University shall notify the agency of its decision to commence an investigation prior to commencing the investigation. The investigation shall begin within thirty (30) days after the conclusion of the inquiry.
Each researcher under investigation shall be apprised of the allegations in writing, of the identity of the members of the Investigation Committee, and of the right to retain private legal counsel. The accused person(s) as a whole and the accuser(s) as a whole shall each have the right to challenge the appointment of one member. Such challenge shall be made in writing to the chairperson within ten days of notification of the identity of members. Upon receipt of the challenge the chairperson shall promptly appoint another member to replace the challenged member and notify all parties of the member’s identity. Further, the accused person or persons as a whole shall be accorded the right to select one person not under investigation having technical expertise to assist the Committee. Such person shall be appointed to the Committee as a non-voting member and shall be subject to all rules adopted by the Investigation Committee including requirements for confidentiality.

During the investigation University legal counsel shall be available to the Committee for consultation. Information concerning the research under investigation such as laboratory notebooks and related records of research activities, topical, technical, and summary reports, drafts of unpublished manuscripts and related data and materials shall be made available as requested by the Committee.
The Committee shall hold all meetings in confidence unless open meetings are approved in writing by the President. The Committee from time to time shall inform each accused person under investigation of its general progress. Accused persons under investigation shall be treated as innocent of the charges at all times until and unless duly found to be in violation. Accused persons shall be afforded the opportunity to respond to the charges and to questions posed by the Committee and to provide additional information or explanations voluntarily. In response to a request by the accused or on the Committee's own initiative, it shall be a matter of the Committee's sole discretion subject to written approval of the President as to whether and how the accused and accuser should confront each other, or the case should be publicized. Factors to be considered in recommending such disclosure, confrontation, or publication shall include a) the behavior and actions of the accused and accuser, b) regulatory requirements of the sponsoring agency or contractual provisions governing the research, c) whether in view of the nature of the case the proposed action would enhance impartiality, objectivity, and fairness in the manner of conducting the Committee's proceedings and in reaching a just decision, and d) the relationship of the University's investigative efforts by the sponsor.

The Committee may in its discretion for itself or on behalf of the accused or accuser require delivery of documents, interview witnesses, take
IV.C.6. A finding that a person has committed research fraud shall require a unanimous vote of the Investigation Committee. The accused person shall have fourteen days to provide comments on the finding to the Committee. The Committee may change its vote, report and/or finding based upon the comments.

IV.C.7. If a unanimous vote of the Committee for a finding of research fraud is not obtained, then the person under investigation is innocent of research fraud.

IV.C.8. The Committee may also recommend separately or with the above findings that, because in its unanimous opinion the allegations of fraud appear to have been made in bad faith, a further investigation of the accuser should be initiated. Alternatively, the Committee may actually
find by unanimous vote that the allegations of research fraud were made in bad faith. In such instance, the accuser shall have fourteen days to provide written comments thereon to the Committee. The Committee may change its vote, report and/or finding based upon the comments.

IV.C.9. The findings in 6, 7, or 8 above and the comments of the accused and/or accuser as applicable shall be included in a final written report of the Committee signed by all voting members which shall be submitted to the President. The investigation shall be completed within 180 days. If the research was sponsored by the PHS, the investigation shall be completed within 120 days, unless PHS grants an extension pursuant to 42 C.F.R. § 50.104(a)(5).

IV.D. Action Following Investigation

IV.D.1. The final report shall be made available to the sponsoring agency, the person(s) accused, and appropriate portions to the accuser(s).

IV.D.2. If the Committee finds research fraud, the University shall take the following actions as required or appropriate:

IV.D.2.a. Notify the sponsoring agency of the findings:
IV.D.2.b. Take steps to withdraw, retract, modify, or explain all pending and previously published abstracts and papers related to the fraudulent research and to alert publishers, organizations, and the public to the affected research;

IV.D.2.c. Take or initiate appropriate disciplinary action (e.g., dismissal proceedings) as well as administrative, a criminal, or civil legal action concerning the persons found to have committed research fraud; and

IV.D.2.d. Take any other steps deemed appropriate to accomplish justice and preserve the integrity of the University and the credibility of the Sponsor’s program.

IV.D.3. If the Committee does not find research fraud, efforts will be undertaken to the extent possible and appropriate by the University to fully protect, restore, or maintain the credibility of the research project, research results, and the reputation of the accused, the sponsor, and others who were involved in the investigation or deleteriously affected thereby.

Evidentiary material, documents, etc., shall be maintained or disposed of in accordance with University Counsel’s advice. Such documentation shall be made available to the sponsor of the research where required by law.
IV.D.4. If the Committee further finds that a party's allegations were made in bad faith, steps shall be taken by the University to further investigate the party and take appropriate disciplinary or legal action. If such party is not associated with the University, appropriate organizations or authorities shall be notified and administrative or legal action considered.

IV.D.5. The Board of Regents in the pursuit of justice and fairness may, in its sole discretion, fully or partially reimburse the accused and/or the accuser for legal fees in cases of unusual hardship.

IV.E. Document Retention

All documentation of an inquiry that does not lead to an investigation shall be maintained for at least three (3) years after the conclusion of the inquiry, and shall be provided to the sponsoring agency upon request if required by the agency's regulations. All documentation of an investigation shall be maintained for five (5) years after the end of the investigation.

IV.F. Compliance With Federal Policies

Faculty members or others who are on the staff of the Veterans Administration Medical Center or who perform clinical, medical, or other...
specialized research under the aegis of UNM must also comply with federal policies and guidelines which govern such work. See paragraph I below. The Committees shall cooperate with the University in meeting various federal agency reporting requirements regarding their inquiries or investigations. In particular, the special reporting requirements of the National Science Foundation [see 45 C.F.R. Part 689.3(b)] and the OSI/NIH/PHS [see 42 C.F.R. Part 50.103, 104] shall be complied with.

IV.F.2.
If the Research was funded by the PHS, the following notification requirements shall be followed:

IV.F.2.a. ORI shall be notified at any stage of the inquiry or investigation if any of the following conditions exist:

- an immediate health hazard involved
- an immediate need to protect federal funds or equipment
- an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is/are the subject of the allegations as well as his/her co-investigators and associates, if any
- a probability that the alleged incident is going to be reported publicly
- a reasonable indication of possible criminal violation (notification of ORI within 24 hours).
If an inquiry or investigation is terminated without completing all required steps, a report of such planned termination, including a description of reasons, shall be made to ORI.

ORI shall be promptly advised of any developments during the course of an investigation that disclose facts that may affect current or potential DHHS funding for individual(s) under investigation or that the PHS needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest.

The final report to ORI shall describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained relevant to the investigation, the findings, and the basis for the findings; and include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct, as well as a description of any sanctions taken by the institution.

**Distribution of this Document**

Present faculty and staff shall be given copies of this document as soon as possible. New faculty and staff shall be issued a copy at the time of initial employment, and dissemination shall be made to students in an appropriate manner.
IV.H. Continuing Review of Policy

These University policies and procedures relating to ethical conduct of research and investigation of allegations of fraud shall be under continuing review and modified in light of the experience gained. Suggestions for revision should be sent to the Research Policy Committee.

IV.I. Treatment of Federal Agencies' Final Rules

IV.I.1. As federal agencies issue their own final rules on misconduct in science which set forth the duties and responsibilities of their awardee and applicant institutions, such final rules will govern where applicable.

IV.I.2. It shall be the responsibility of each individual, unit, or group involved in applying for, receiving, or working under, grants or contracts with the federal agency to be familiar with that agency’s final rule on misconduct in science.

IV.I.3. Questions concerning the applicability of a federal agency final rule in matters of misconduct in science shall be referred to the University Counsel for resolution.