Section IV: Research and Sponsored Projects

Chapter 1: Grants, Contracts, and Gifts

1.1 Procedures for Accepting Grants, Contracts, and Gifts

1.1.1 The Rules and Regulations of the Board of Regents of the University of Texas System cite specific procedures for handling gifts (See Regents’ Rules and Regulations Series 60101 and 1.1.3.2 of this Handbook) and for accepting contracts and grants (See Regents’ Rules and Regulations Series 10501 and 1.1.3.1 of this Handbook).

1.1.2 All proposals by University personnel requesting funding from outside funding sources must have advance institutional review and approval of the President or the President’s delegate prior to submission to the potential donor, grantee, contractor, or other external funding agency and any resulting gift, contract, or grant must be formally accepted by the University, deposited in appropriate restricted University accounts, and administered by designated University personnel.

1.1.2.1 Proposals for grants or contracts must be forwarded to the Office of Research and Sponsored Projects for review and subsequent approval by the President, or the President’s designee, prior to submission to any potential funding agency. Acceptance of any resulting grant or contract must be processed through the Office of Research and Sponsored Projects and will be administered by the designated Principal Investigator in restricted contract and grant accounts supervised by the Office of Research and Sponsored Projects and Office of Contract and Grant Accounting.

1.1.2.2 Proposals for gifts must be forwarded to the Office of Institutional Advancement for review and subsequent approval by the President, or the President’s designee, prior to submission to any potential donor. Acceptance of any resulting gift must be processed by through the Office of Institutional Advancement and will be administered by the appropriate University department, office, or program in restricted gift accounts as determined by the Office of Institutional Advancement.

1.1.3 In a university with strong development and research programs, there is occasional misunderstanding of whether funds coming to the institution are to be categorized as “contracts and grants,” or as “gifts. The following guidelines are provided to assist in making this distinction, but specific determinations may be obtained from the Office of Research and Sponsored Projects or the Office of Institutional Advancement.

1.1.3.1 Grants and Contracts: The Office of Research and Sponsored Projects will handle and process all proposals and administer resultant income when the funding agency and the University establish a contractual relationship resulting in an obligation or requirement that specific products, activities, services, or information be provided to the funding agency. A contract or written agreement authorizing acceptance of these funds for these purposes must be processed by the Office of Research and Sponsored Programs and approved by the President or the President’s designee. Only the President or a specific delegate of the President may execute a contract on behalf of the University. All activities with local, state or federal agencies, as well as foreign agencies, and some commercial firms and many foundations fall into this category.

1.1.3.2 Unrestricted or Restricted Gifts: A relationship may be established in which the funding agency causes a general or specific result that is meant to benefit primarily the University or one of its divisions. The funds may be directed to one or more objectives or activities of the University or one of its divisions (a restricted gift), or its use may be entirely discretionary (unrestricted gift). This kind of activity is usually identified with the Development program of the Office of Institutional Advancement, and funds for such purposes must be accepted, receipted, and acknowledged by that office. Funds from individuals, most commercial firms, and some foundations often fall into this category.
1.1.4 The following general guidelines assist in determining whether funds should be processed and administered through the Office of Research and Sponsored Projects or the Office of Institutional Advancement:

a. Projects with specific research or service objectives are processed by the Office of Research and Sponsored Projects as grants and contracts. Funds specifically for unrestricted support (gift) of a research or service area, a broad departmental or College project planned or underway or, to accomplish the benevolent intent of a donor to see altruistic benefit are processed through the Office of Institutional Advancement.

b. Projects with government sponsorship are handled by the Office of Research and Sponsored Projects, except for student financial aid.

c. Projects based on any written agreement which requires the reporting of expenditures of funds or the reporting of results must be processed by the Office of Research and Sponsored Projects.

d. Projects that will require a proposal to an outside funder that incorporates a budget (usually consisting of salaries and wages, travel, equipment, supplies, or computer time) that results in the funder awarding money to be spent by the University over a specific period of time and in direct response to the request presupposes a contractual arrangement and must be processed by the Office of Research and Sponsored Projects.

Chapter 2: Management of Conflict of Interest in Sponsored Research and Development

The mission of the University encompasses the application and dissemination of knowledge and cooperation with the public and private sector to improve the quality of life in our region and state. Accordingly, the University recognizes its responsibility to encourage technology transfer and interactions between its employees and the business community and public entities. Two common means of accomplishing this transfer of knowledge are consulting and commercialization of technologies derived from University research. Policy of The University of Texas System supports development and commercialization of University-owned technologies, in the best interest of the public, the inventor, and the research sponsor, if any.

Increase in technology transfer activities in recent years has heightened awareness among research sponsors and the University community of potentials for conflict of interest arising from such activities. Several federal agencies, including the National Science Foundation (NSF) and the Department of Health and Human Services (DHHS), have issued policies regarding management of potential conflicts by funded institutions and their researchers. Key in these policies is the requirement that universities publish and implement clear institutional policies on Conflict of Interest, requiring timely and full disclosure of actual or potential conflicts of financial interests related to proposed or funded projects with those agencies.

For purposes of complying with these regulations, and to maintain a research environment that promotes faithful attention to high ethical standards, the University has promulgated this policy relating to conflicts of interest to be administered in conjunction with Texas laws setting forth standards of conduct (Texas Government Code, Chapter 572) and the Code of Ethics of The University of Texas System (See Regents Rules and Regulations Series 30104).

2.1 Definitions

Throughout this Chapter of the Handbook, unless the context requires a different meaning:

2.1.1 “Potential conflict of interest” occurs when an individual’s private interests compete with his/her professional obligations to the University to a degree that an independent observer might reasonably question whether the individual’s professional actions or decisions are determined by considerations of
personal gain, financial or otherwise. Federal regulations address such conflicts when a significant financial interest could affect or may be reasonably expected to bias the design, conduct, or reporting of sponsored research.

2.1.2 “Investigator” means the principal investigator/project director, co-principal investigators, and any other person at the University who has authority and responsibility for the design, conduct, or reporting of research or educational activities funded, or proposed for funding, by the above-cited agencies. In the context of financial interests, “Investigator” also includes the investigator’s spouse and dependent children.

2.1.3 “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 from profit-making enterprises); equity interests (e.g., stocks, stock options or other ownership interests); and Intellectual Property rights (e.g., patents, copyrights and royalties from such rights). For the purpose of the pertinent federal regulations, the possibility of a potential conflict of interest exists when financial interest or business enterprises or entities exceed either $10,000, or represent more than five percent ownership interest for any one enterprise or entity when aggregated for the investigator and the investigator’s spouse and dependent children.

For the purposes of this policy, “Significant Financial Interest” does not include:

a. salary, royalties, or other remuneration from The University of Texas System;

b. income from seminars, lectures, or teaching engagements sponsored by public or non-profit entities;

c. income from service on advisory committees or review panels for public or non-profit entities;

d. an equity interest that does not exceed $10,000 and does not represent more than a five percent ownership interest for any one enterprise or entity, when aggregated for the investigator and the investigator’s spouse and dependent children;

e. 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.

2.2 Guidelines - Overview of Responsibilities

2.2.1 If, significant financial interest exists or potentially exists for the investigator or the investigator’s immediate family, then the investigator must disclose the financial interest to the Office of the Vice Provost and Sponsored Projects as a potential conflict of interest. This obligation exists for all work funded or proposed for funding through contracts or grants accepted and administered or proposed for acceptance and administration by the University.

2.2.2 If a significant financial interest and potential conflict is disclosed by an investigator, it is the responsibility of the University administration to determine if there appears to be a reasonable risk that the project’s design, conduct, or reporting might be directly and significantly affected by the disclosed financial interest and, if so, establish a plan to manage, reduce, or eliminate the conflict, and/or report unresolved conflicts to the funding agency.

2.2.3 The University may also require that its sub-grantees, contractors, or collaborators on certain federal projects certify their compliance with these standards regarding conflicts of interest in research.
2.3 Disclosure, Review, and Records

2.3.1 On current or newly-awarded contracts/grants not supported by NSF/HHS, the "Investigator's Conflict of Interest Statement" should be submitted through the Department Chair and College Dean or Center Director to the Vice Provost and Sponsored Projects only when a significant financial interest exists that is related to the funded project, and thus presents a potential conflict.

2.3.2 Before submitting a proposal to NSF or HHS units, an investigator must complete an "Investigator's Conflict of Interest Statement" and forward it through the Department Chair and College Dean or Center Director to the Vice Provost and Sponsored Projects. If there is significant financial interest that could reasonably be affected by the proposed project, the disclosure must be made well in advance of the proposal submittal date. At the time the proposal is transmitted for submission by the Office of Research and Sponsored Projects to the funding agency, the transmittal must include a copy of the fully completed and signed form, even if there are no significant financial interests.

2.3.3 The Vice Provost and Sponsored Projects will conduct a preliminary review of all financial disclosures to make an initial determination of whether there may be a potential for conflict of interest. If so, the investigator will be notified, and the disclosure will be referred to the Conflict of Interest Committee.

2.3.4 Disclosures must be updated on an annual basis.

2.3.5 The Conflict of Interest Committee will be comprised of research-active faculty and administrators appointed for three-year terms by the President. The committee will review disclosures referred to them by the Vice Provost and Sponsored Projects to determine whether a significant financial interest could affect the design, conduct or reporting of the research activities funded or proposed for such funding, and determine what conditions or restrictions, if any, should be imposed to manage such interests. Examples of conditions or restrictions that may be imposed to manage actual or potential conflicts of interest include the following:

a. public disclosure of Significant Financial Interests;

b. monitoring of the research by independent reviewers;

c. modification of the research plans;

d. disqualification from participation in all or a portion of the research project in question

e. divestiture of Significant Financial Interests;

f. severance of relationships that create actual or potential conflicts.

2.3.6 In the event that an investigator participates in a research project subject to this policy, and the project is being simultaneously supported by an outside organization or other source that has a commercial interest in the outcome of the research project, the research support by such organization should be provided through contract or grant to the University. Any direct compensation or payment to the investigator from the outside organization or other source shall be considered a significant financial interest that must be reported.

2.3.7 The Office of the Vice Provost and Sponsored Projects will maintain all records received and created pursuant to this policy as well as all records of actions taken with respect to each disclosure of significant financial interest for at least three years beyond the termination or completion of the award, or until resolution of any action by the granting agency involving the records, whichever is longer.
2.4 Enforcement

The University anticipates that its investigators will comply fully, promptly, and in a timely manner with this policy. Instances of deliberate breach, including failure to submit required statements or updates thereof; failure to provide additional information requested by the Conflict of Interest Committee, knowingly filing an incomplete, erroneous, or misleading statement; knowingly violating applicable laws, the Regents Rules and Regulations or this policy; or failure to comply with prescribed conditions or restrictions that have been imposed pursuant to this policy, will subject the investigator to disciplinary action under policies of The University and Regents Rules and Regulations. Such action could result in a formal reprimand, non-renewal of appointment, termination of appointment for good cause, or any other enforcement action mandated by a granting agency.

If the failure of an investigator to comply with this policy has biased the design, conduct, or reporting of research, The University will promptly notify the granting agency of the incident and take corrective action.

Chapter 3: Policy for Review of Human Subject Research

The University complies with the Department of Health and Human Service (DHHS) regulations for the protection of human subjects, 45 Code of Federal Regulations (45 CFR 46) Section 45, Part 46, effective August 19, 1991, as documented in the University’s Federal Wide Assurance (FWA 00001224).

3.1 Ethical Principles

The University’s human subject research program is directed by three basic ethical principles of respect for persons, beneficence, and justice, in the Belmont Report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, April 18, 1979, created by the National Research Act, Pub. L. 93-348, July 12, 1974.

3.2 Institutional Policy

3.2.1 All research sponsored or sanctioned by the University involving any human subjects, whether funded or non-funded, conducted by faculty, students or staff, using any property or facility owned or controlled by the University, or involving the use of non-public information maintained by the University to identify or contact human research subjects will be conducted in compliance with 45 CFR 46. Research involving human subjects may not be performed unless the requirements of this federal policy have been satisfied and written certification of the University’s review and approval of the research is obtained.

3.2.2 The Vice Provost and Sponsored Projects is authorized to review all proposed research, and decide whether the University will permit the research, as appropriate to the role and scope of the University.

3.2.3 All human subject research will be reviewed by the University’s Institutional Review Board (IRB). The involvement of human subjects in research projects will not be permitted to begin until the IRB has approved the research protocol, the informed consent document, the testing instruments, and the appropriate consents from subjects have been obtained by the Principal Investigator.

3.2.4 The IRB will consider the following criteria before approving the use of human subjects in research covered by 45 CFR 46:

a. the risks to subjects;

b. the anticipated benefits to subjects and others;
c. the importance of the knowledge that may be reasonably be expected to result; and
d. the informed consent process to be used by the Principal Investigator(s).

3.2.5 Notification of IRB action, including exemption, modification, approval, or disapproval of the proposed protocol will be given to the Principal Investigator(s) and The Office of Research and Sponsored Projects. Previously approved protocols must be reviewed annually by the IRB. Interim changes to approved protocols must be reviewed and approved by the IRB prior to implementation. If the protocol is to be considered via full IRB committee review any protocols, amendments, progress reports or informed consent documents not received with at least 10 days lead time will not be considered by the IRB until they have had sufficient time to review.

3.2.6 If human subjects involved in research projects approved by the IRB are harmed, including any physical or psychological injury, any adverse events, improper disclosure of private information, economic loss, and other harmful or potentially harmful occurrences, the Principal Investigator must notify the IRB and the Office of Research and Sponsored Projects immediately. ORSP will, in turn, notify the Office of Human Research Protections, Department of Health and Human Services.

3.2.7 Any person responsible for the design, conduct, or reporting of human subject research that has an economic interest in, or acts as an officer or director of any outside entity whose financial interests would reasonably appear to be affected by the research should be removed from the project, due to conflict of interest as provided in Chapter 2 of this Section of the handbook.

3.3 Applicability

3.3.1 This policy applies to all research involving human subjects, regardless of sponsorship, if:

a. the research is sponsored by the University; or

b. the research is conducted by or under the direction of any employee, or student, or agent of the University in connection with his or her institutional responsibilities; or

c. the research is conducted using any property or facility owned or controlled by the University; or

d. the research involves the use of non-public information maintained by the University to identify or contact human research subjects or prospective student participants.

3.3.2 All human research that is determined by the IRB to be exempt from review under 45 CFR 46 must be conducted in accordance with the Belmont Report of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research and shall remain subject to all University requirements for full submission of all protocol procedures using human subjects, and orderly accounting procedures.

3.4 Institutional Review Board Procedures

3.4.1 An Institutional Review Board (IRB) has been established by the University to review all proposed human research protocols. The IRB will meet at least twice per year upon the call of the Chair.

3.4.2 Principal Investigators must submit to the Office of Research and Sponsored Projects fully detailed protocols of their proposed research involving human subjects before the initiation of any research activities or data collection. Principal Investigators should familiarize themselves with the requirements of Federal regulation CFR 46 and with the University’s Federal Wide Assurance at http://www.utep.edu/orsp/Compliance/humans.html

3.4.3 Required documentation to be submitted with the protocol includes:
a. informed consents in English and/or Spanish;
b. letters of approval from appropriate school districts, clinics, hospitals, or other outside performance sites;
c. recruiting posters or other advertisements; and
d. testing instruments or survey forms in English and/or Spanish.

3.4.4 The IRB will provide an initial review of the submitted protocol and all supporting documentation to determine whether, in compliance with provisions of 45 CFR 46, the protocol may be exempted from further review, will be given an expedited review, or will be subject to a full review by the IRB.

3.4.5 An exemption, all or in part, to further review by the IRB may be granted for any proposed protocol qualified under the six exemption categories provided in 45 CFR 46, as determined solely by the IRB. Written notice of this determination will be provided to the Principal Investigator and the Office of Research and Sponsored Projects.

3.4.6 Expedited review by the IRB may be provided for any proposed protocol which, under the nine expedited review categories provided in 45 CFR 46, is determined by the Chair of the IRB to involve no more than minimal risk to human subjects. The Chair, or his or her delegate, in consultation with such other members of the IRB as the Chair may deem necessary, will conduct the review and shall provide the Principal Investigator and the Office of Research and Sponsored Projects with a written determination as soon as practical.

3.4.7 Full committee review of research protocols is required when the research project is determined to involve greater than minimal risk to human subjects. A quorum of more than half of the IRB must be convened to act upon a protocol presented for full committee review. If the protocol is to be considered via full IRB committee review any protocols, amendments, progress reports or informed consent documents not received with at least 10 days lead time will not be considered by the IRB until they have had sufficient time to review.

3.4.8 Investigators will implement standard Universal precautions procedures for the protection of human subjects. Principal Investigators will immediately inform the Institutional Coordinator for Research Review in the Office of Research and Sponsored Research of any human subject research injury or adverse event during the course of the project.

3.4.9 Investigators must resubmit protocols to the Office of Research and Sponsored Projects, which require renewal after one year. A research progress report is required for consideration of each renewal request, and all changes to the protocol must be identified in order that an appropriate amendment to the protocol can be filed with the IRB. The Office of Research and Sponsored Projects will send a memo of determination to the PI when the IRB has approved the renewal or amendment of the protocol.

3.4.10 All Principal Investigators are required to have successfully completed a required training course in human subject research requirements and research ethics administered by the Office of Research and Sponsored Projects. A certificate of this course completion must be maintained on file at the Office of Research and Sponsored Projects.

Chapter 4: Intellectual Property

Policies governing Intellectual Property related to or arising from employment with the University of Texas System or academic activities at the undergraduate, masters, or doctoral levels within the University of Texas System are stipulated in Regents Rules and Regulations Series 90101-90106 at http://www.utsystem.edu/bor/rules/CompleteTOC-2.htm#intellectualproperty.
4.1 General Rules for Intellectual Property

It is the objective of this policy to encourage the development of inventions and other intellectual creations for the best interest of the public, the creator, and the research sponsor, if any, and to permit the timely protection and disclosure of such Intellectual Property whether by development and commercialization after securing available protection for the creation, by publication, or both. The policy is further intended to protect the respective interests of all concerned by ensuring that the benefits of such property accrue to the public, to the inventor, to the University of Texas at El Paso, to University of Texas System, and to sponsors of specific research in varying degrees of protection, monetary return and recognition, as circumstances justify or require.

4.1.1 Individuals Subject to Intellectual Property Policies

These Intellectual Property policies applies to all persons employed by the University of Texas at El Paso, including but not limited to, full and part-time faculty and staff and visiting faculty members and researchers, and to anyone using the facilities of the University, including undergraduate student candidates for master’s and doctoral degrees, and to postdoctoral and pre-doctoral fellows.

The University shall have sole ownership of all Intellectual Property created by an employee who was hired specifically or required to produce it or commissioned by the University. Except as may be provided otherwise in a written agreement approved by the President, the provisions of the Regents Rules and Regulations Series 90101 relating to division of royalties shall not apply to Intellectual Property owned solely by the University.

4.1.2 Types of Intellectual Property Subject to Compliance

Except as set forth in 4.1.3 4.1.4 below and Series 90102 of the Regents Rules and Regulations, this policy shall apply to all types of Intellectual Property, including but not limited to any invention, discovery, trade secret, technology, scientific or technological development, research data and computer software regardless of whether subject to protection under patent, trademark, copyright or other laws.

Data created by an employee is owned by the University and the creator shall have a nonexclusive license to use such data for nonprofit educational, research, and scholarly purposes within the scope of the employee’s employment, subject to adherence to other provisions of this policy.

4.1.3 Types of Works Excluded from This Policy

The University may not assert its interest in scholarly or educational materials, artworks, musical compositions, and dramatic and non-dramatic literary works related to the author’s academic or professional field, regardless of the medium of expression. This applies to works authored by students, professionals, faculty, and non-faculty researchers. Regents Rule and Regulation 90101 encourages creators of these works to manage their copyrights in accordance with the guidelines concerning management and marketing of copyrighted works. The University normally asserts interest in software as an invention, however, original software that is content covered by the previous paragraph or that is integral to the presentation of such content shall be owned in accordance with the previous paragraph.

4.1.4 Role of the Creator

Any person subject to this policy who creates Intellectual Property other than on government or other sponsored research projects where the grant agreements provide otherwise, should have a major role in the ultimate determination of how it is to be published. The President may, at his or her discretion, decide to develop and commercialize an invention after securing available protection for the creation, if needed.
4.1.5 Use of University Facilities and Resources

Neither the facilities nor the resources of the University may be used (i) to create, develop, or commercialize intellectual properties outside the area of expertise for which the individual was hired (See Regents Rules and Regulations Series 90101, Section 9, and Series 90102, Number 2, Section 1); or (ii) to further develop or commercialize intellectual properties that have been released to an inventor (See Regents Rules and Regulations Series 90102, Number 2, Section 2.2) except as approved by the President of the University.

Chapter 5: Organized Research Units

5.1 ORU Reference and Functions

5.1.1 The phrase “organized research unit” (ORU) refers to a formally-organized, structured, and recognized research enterprise that typically contain the word “center,” “institute,” “laboratory,” or “clinic,” and which constitute a unique set of institutional expressions of faculty research interests and expertise.

5.1.2 The functions of an ORU are to:

1. Facilitate research and research collaborations;
2. Disseminate research results through conferences, meetings and other activities;
3. Strengthen graduate and undergraduate education by providing students with training opportunities and access to facilities;
4. Seek extramural research funds; and
5. Carry out university and public service programs related to the ORU’s research expertise.

5.1.3 Four characteristics of ORU are that they:

1. Have a defined structure and at least an assigned part-time administrative staff;
2. Have a developed plan that advances the University’s research strategy;
3. Have a strong student development component – they enhance the education and professional development of students by providing significant mission-related research experiences; and,
4. Provide value to the university – they accomplish objectives that could not be done by individual investigators working within the framework of academic departments.

5.2 Designation

ORUs normally carry one of the designations below. It is recognized that some long-established units have designations that do not conform to the definitions that follow; this policy does not require that they be renamed. However, insofar as possible, the naming of new units shall be taken from those defined below. It should also be noted that new non-ORU units that include the terms “institute,” “center,” “laboratory” or “clinic” in their title, should ensure that the purpose of the units conform to the descriptions below to compete more effectively for extramural support.

5.2.1 INSTITUTE: An institute is a major ORU established on a continuing basis primarily for the coordination and promotion of faculty and student research interests organized around a broad subject area. Institutes are, by virtue of their scope, University enterprises. Normally, the breadth of research projects and programs transcends department, school, college, or even campus boundaries, and application of research to meet societal needs is a part of an institute’s mission. Public service activities and programs related to and arising from research conducted within an institute help advance institutional goals. An institute may serve as an umbrella organization that encompasses two or more other ORUs. Requests to designate a new institute require approval of the UTEP President.
5.2.2 CENTER: A center is:

1. analogous to an institute, but more limited in its designated research scope; it focuses
departmental, college or university resources to address its mission and achieve its goals; it
may be single-, multi-, trans-, or inter-disciplinary in nature; or

2. an organized research unit that serves a specific purpose within an institute; or
3. a unit that provides specialized capabilities to further research or enhance instruction.

5.2.3 LABORATORY: A laboratory is a specialized facility headed by a director with a research staff
that may include non-faculty personnel. The laboratory represents a significant investment in
equipment, facilities and expertise; it provides support research activities in several departments,
colleges, schools, or other ORUs. A laboratory in which substantially all participating faculty members
are from the same academic department is a departmental laboratory, and not an ORU.

5.2.4 CLINIC: A specialized unit that engages target groups in research or education or provides
clinical services with a focus on specific health issues or risk factors.

5.2.5 Non-ORUs: These are typically informal or temporary organizations of limited scope, with
comparatively little institutional resource support. They may be grant-funded enterprises. These
organizations may be formally organized or ad hoc, and usually comprise a small collection of scholars
within an ORU or a department. Historically, non-ORUs have included the terms institute, center,
laboratory, clinic, group, or program in their titles. Henceforth, the use of the term “institute” in the
name of a Non-ORU requires approval of the President. Governance of Non-ORUs is assigned to the
respective Dean(s).

5.3 Classification of ORU

The University recognizes two categories of ORU, with one subcategory each. To encourage growth of
diverse organizations, the configuration allows an ORU to move from one category to another, as its
funding and/or mission change.

5.3.1 Category I: College/School ORU

5.3.1.1 Category I ORUs represent initiatives that expand upon ongoing research, education,
training, and service efforts in existing departments within a college or school. Although these ORUs
may involve some interdisciplinary activity between colleges/schools, the degree of such activity is
generally a small part of the unit’s effort.

5.3.1.2 Category I ORUs will be housed within the appropriate college/school. The respective
Dean(s) are responsible for deciding upon the viability of Category I organizations and for the
oversight of their operations.

5.3.1.3 The final decision to create a Category I ORU is made by the respective Dean. Criteria for
establishing this category of ORU are that they:

- Are compatible with the teaching, research, and service missions of a college/school; and
- Enhance quality and productivity of college/school faculties.

5.3.1.4 Requirements for the establishment of a new ORU are described in paragraph 5.4, below.
Reporting and periodic evaluation are described in paragraph 5.8, below.

5.3.1.5 An existing unit in this category can be terminated by the pertinent dean for fiscal or other
reasons, after consultations with the respective chairs and the Provost (or designee).
5.3.2 Category II: University ORU

5.3.2.1 There may be cases where planned research, education, training, and service activities span different units at the university, to the extent that the operation and administration of a research unit within a college or school would hamper its productivity. This category addresses such needs. Category II ORU directors report to an institute director, the Vice President for Research (VPR), or Provost with respect to operational and fiscal issues of their organizations. The participation of college/departmental faculty in Category II ORUs is contingent upon negotiated workload agreements between the respective faculty member(s) and his/her/their academic leadership.

5.3.2.2 Criteria for establishing ORU in this category are that they:

- Strengthen the overall ability of the University to accomplish its mission with respect to research, education, training, and service;
- Promote interaction of different units from several colleges/schools; that is, interaction that would not occur without a center/institute;
- Although not a required criterion, this category of centers/institutes may also enable the University to take advantage of opportunities announced by funding agencies, such as the National Science Foundation, Department of Defense, Department of Energy, and National Aeronautics Space Administration.

5.3.2.3 ORUs in this category should be designed to be financially self-sustaining on a steady basis, following an initial start-up phase. “Self-sustaining” means that a unit can operate with resources it acquires or generates. There may be instances where this is not possible and additional resources of the University are necessary to subsidize selected ORUs. Final budgetary decisions are the responsibility of the VPR.

5.3.2.4 Establishment of new category II ORUs will be in accordance with procedures in the paragraph 5.4, below. The final decision to create a Category II ORU is made by the President. Reporting and periodic evaluation are described in paragraph 5.8, below.

5.3.3 Subcategories IA and IIA:

These are special subsets of Category I and II, comprised of ORU with annual operating budgets (total funds available) of $3 million or more. The University must report these ORUs to The University of Texas System; such units must meet the requirements found in Regents’ Rules and Regulations Series 40602. While oversight of Category IA ORUs remains with the respective Dean(s), the VPR is involved to meet university and UT System reporting and evaluation requirements.

5.3.3.1 Category IA and IIA ORUs must have an Advisory Committee or Council, approved in accordance with Regents’ Rules and Regulations Series 60302. Named ORUs must be approved in accordance with Regents’ Rules and Regulations Series 80307. The President of the University has the authority to approve advisory committees/councils and the limited authority to approve naming of “less prominent facilities and programs” consistent with guidelines provide by the Chancellor. Corporate naming must be approved by The University of Texas System Board of Regents.

5.4 Establishment of new ORU

Each research unit must demonstrate a clear need for some number of faculty members to work together in a single administrative structure that allows them to carry out a research program more effectively than they would be able to do working individually or in informal partnerships. Approval of a proposed Category I ORU approval is delegated to the respective Dean(s), after consultation with the Provost and Vice President for Research. Approval of a proposed Category II ORU is made by the President of the University on recommendation of the Provost and Vice President for Research.
5.4.1 Routing of a Proposal to establish a new ORU.

a. Category I: Proposals should be routed to the respective Dean(s).

b. Category II: Faculty or academic administrators seeking to establish a new Category II ORU should submit the request to the Vice President for Research. When preparing his/her recommendation, the VPR will seek input and advice from Deans, Department Chairs, Directors of other Category II ORUs, or other internal or external individuals/groups.

5.4.2 At a minimum, the following information should be included in the proposal:

a. purpose and need for the research unit, particularly the need for a number of faculty members to work together in a single administrative structure;

b. relevance of the unit to the University's strategic plan for research;

c. role of the unit in undergraduate and graduate education and interdisciplinary curriculum innovation;

d. proposed name (New Category I ORUs will very rarely be called ‘institutes’);

e. proposed staffing;

f. organization and expectations of the scientific advisory board, if applicable. (Research units with annual operating budgets (funds available) of greater than $3 million must have an advisory committee/council established in accordance with Regents’ Rules and Regulations, Series 60302);

g. any proposals to name the research unit for an individual or an entity; (Regents’ Rules and Regulations Series 80307 governs such a naming);

h. five-year development plan for the unit, arranged as follows:

   I. Executive Summary: Brief description of the research unit highlighting: its strategic relevance; the faculty members and other participants; the effective date; space requirements; other required resources; budget needs and source(s) of funding; key milestones for success (with dates); primary risks to the project’s success with mitigating strategies; plan for sustainability; and exit strategy.

   II. Project Plan: Detailed project plan with an explanation of the strategic rationale; plan for fostering student involvement in research; key personnel; a timeline for development; and supporting analyses that form the basis for the proposal. The strategic rationale must be tied directly to the University’s strategic plan for research and should set out the benefits the unit will provide to the University.

   III. Analysis of the Opportunities for Extramural Funding: A concise evaluation of the opportunities for seeking and obtaining extramural funding support should be discussed:

      a. A list of potential funding opportunities;

      b. A list of submitted proposals; and

      c. A list of awarded grants and/or contracts.
IV. Risk Analysis: A concise evaluation of the potential risks associated with the development and implementation of the proposed unit:

a. Cost risks (e.g. equipment acquisition; salaries; laboratory operations);

b. Regulatory risks;

c. Environmental risks;

d. Legal risks; and

e. Governance Issues.

V. Success Criteria: Explicitly define the criteria (measure and timing) that will indicate the unit is achieving success.

VI. Sustainability and Exit Strategies: Identify the plan for making the unit self-supporting and describe the key indicators that will be monitored as “triggers” for implementing exit strategies. Discuss the implications of the proposed exit strategies that will be employed should they become necessary (e.g. the economic impact of the exit strategy scenarios).

VII. Appendices: Any necessary data or supporting documents relevant to the other sections of the proposal; including documentation from appropriate UTEP officials that confirms the commitment of any space and funds required by the center or institute.

5.5 Approval of ORU.

5.5.1 Category I. Approval of new Category 1 ORUs is delegated to the respective Dean(s) for Category I centers and laboratories, after consultation with the Provost and the Vice President for Research (VPR). Deans will provide a copy of the proposal package and documentation of the approval to the VPR. New Category I ORUs will rarely be called “institutes,” such designation requires the approval of the President of the University.

5.5.2 Category II. Approval of new Category II ORU is made by the President of the University. Proposals are submitted to the VPR and routed through the Provost. In preparing their recommendations, the Provost and VPR may consult with Deans, as appropriate. Copies of the proposal package and approval documentation will be maintained by the VPR.

The mere fact that a research unit was proposed in a successful application for grant funding does not constitute designation as an ORU. A proposal for establishment as an ORU must be submitted for approval in accordance with this Chapter of the Handbook of Operating Procedures.
5.6 Documentation of existing ORU.

The Vice President for Research (VPR) will maintain the following information pertinent to ORUs:

1. ORU Name;
2. ORU Vision;
3. Mission;
4. Goals;
5. An explanation of how these goals align with the Research Priorities and Cross-Cutting Research Themes described in Section II of the University’s Strategic Plan for Research;
6. ORU resources: funding; personnel; space and equipment;
7. A current five-year Business Plan, including a discussion of: risk analysis; success criteria; sustainability; and exit strategy; and.
8. Information about the unit’s advisory council or committee, if applicable: membership/composition; frequency of meetings; budget, if any; records of periodic meetings; and reports or recommendations from those meetings.

ORU Directors are responsible to maintain their organization’s current information in the University’s Office of Research and Sponsored (ORSP) Expertise Website.

5.7 Advancing Category I and II ORUs to Categories IA and IIA.

5.7.1 Category I. The respective Dean(s) will monitor the financial growth of the Category I ORUs within the College/School. When the annual operating budget (funds available) of a Category I ORU is greater than $3 million, the unit will be designated Category IA and the VPR will be advised. If the unit does not have an advisory committee or council, actions will be initiated to constitute one in accordance with Regents’ Rules and Regulations Series 60302.

5.7.2 Category II. The VPR will monitor the financial growth of Category II ORUs. When the annual operating budget (funds available) of a Category II ORU is greater than $3 million, the unit will be designated Category IIA. If the unit does not have an advisory committee or council, actions will be initiated to constitute one in accordance with Regents’ Rules and Regulations Series 60302.

5.8 Reporting and Evaluation

5.8.1 Reporting. ORUs will submit annual reports at the end of each fiscal year to the VPR. (Category I and IA ORUs will route their reports through their Deans.) The format will be prescribed by the VPR.

5.8.2 Evaluation. ORUs will be formally evaluated on a periodic basis, but no less often than six years. Evaluation criteria and methods may vary from unit to unit

5.8.2.1 Category I. Respective Dean(s) are responsible to evaluate their Category I ORUs and will provide a file copy of the evaluation to the VPR.

5.8.2.2 Category IA, II and IIA. The VPR will prescribe the evaluations for Category IA, II, and IIA ORUs. An ad hoc committee (may be comprised of internal and external individuals/groups) will be formed to assess at a minimum the ORU’s original goals and objectives, its present functioning, recent accomplishments, future plan, adequacy of space and budget allocations, and future prospects to contribute to the University’s vision and mission. The ad hoc committee’s report will be forwarded to the President of the University, who, in consultation with others will determine whether the ORU should continue, be phased out, or be discontinued. The President will forward the recommendation and the ad hoc committee’s report to Executive Vice Chancellor for Academic Affairs or Health Affairs, as appropriate. File copies of the evaluations and ad hoc committee report will be maintained by the VPR.
Section IV: Research and Sponsored Projects

Chapter 6: Research Misconduct Policy

6.1 Research Misconduct Policy Statement

6.1.1 The University of Texas at El Paso (“University”) strives to create a research climate that promotes faithful adherence to high ethical standards in the conduct of research while not inhibiting the productivity and creativity of scientist and academician. Research misconduct is an offense which not only damages the reputation of those involved, but also that of the entire educational community.

6.1.2 Research misconduct means fabrication, falsification, plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion. To constitute research misconduct, the behavior must (1) represent a significant departure from accepted practices of the relevant research community; and, (2) be committed intentionally, knowingly, or with reckless disregard for the integrity of the research; and, (3) the allegation is proven by the preponderance of evidence. [Federal Register: September 1, 2005 (Volume 70, Number 169)].

6.1.3 Research misconduct is a major breach of the relationship between a faculty or staff member and the University. In order to maintain the integrity of research projects, every person engaged in research, including faculty, graduate and undergraduate students, postdoctoral fellows, and technicians, must keep a permanent auditable record of all experimental protocols, data, and findings. Co-authors on research reports of any type, including publications, must have had a bona fide role in the research and must accept responsibility for the quality of the work reported.

6.1.4 Scholarly activities which involve faculty/student collaboration are encouraged and may be positively recognized in faculty personnel processes. Issues related to faculty/student collaboration may include matters such as expected contributions of each party, order of authorship, and/or type of citation to be given, and must be addressed early in any scholarly project. Decisions must be congruent with the ethics and scholarly customs of each discipline involved. Specific recognition of the nature and scope of individual student contributions must be made in all published materials.

6.1.5 Any inquiry or investigation of allegations of research misconduct must proceed promptly and with due regard for the reputation and rights of all individuals involved.

6.1.6 The University will take all reasonable steps to assure that the persons involved in the evaluation of the allegations and evidence have appropriate expertise; no person involved in the procedures is either biased against the accused person(s) or has a conflict of interest; and, affected individuals will receive confidential treatment to the maximum extent possible.

6.2 Definitions

Throughout Section IV, Research and Sponsored Projects, Chapter 6, Research Misconduct Policy, of this Handbook, unless the context requires a different meaning:

a. “Allegation”: Any written or oral statement or other indication of possible research misconduct made to a University official.

b. “Complainant”: A person who makes an allegation of research misconduct.

c. “Conflict of Interest”: The real or apparent interference of one person’s interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships.
d. “Deciding Official”: The Vice President for Research is the deciding official who makes final
determinations on allegations of research misconduct and any responsive University actions.

e. “Employee”: Any person paid by, under the control of, or affiliated with the University,
including but not limited to faculty, trainees, students, fellows, technicians, nurses, support
staff, and guest researchers.

f. “Evidence”: Any document, tangible item, or testimony offered or obtained during a research
misconduct proceeding that tends to prove or disprove the existence of an alleged fact.

g. “Fabrication”: Making up data or results and recording or reporting them.

h. “Falsification”: Manipulating research materials, equipment, or processes, or changing or
omitting data or results such that the research is not accurately represented in the research
record.

i. “Good Faith Allegation”: An allegation made with the honest belief that research misconduct
may have occurred. An allegation is not in good faith if it is made with reckless disregard for
or willful ignorance of facts that would disprove the allegation.

j. “Inquiry”: Preliminary information-gathering and fact-finding to determine whether an
allegation or apparent instance of research misconduct warrants an investigation.

k. “Investigation”: The formal development of a factual record and examination and evaluation
of all relevant facts to determine if research misconduct has occurred and, if so, to determine
the responsible person and the seriousness of the misconduct.

l. “ORI”: The Office of Research Integrity, the office within the U.S. Department of Health and
Human Services (HHS) that is responsible for the research misconduct and research integrity
activities of the U.S. Public Health Service (PHS).

m. “PHS Regulation”: The Public Health Service (PHS) regulation establishing standards for
institutional inquiries and investigations into allegations of research misconduct, which is set
forth at 42 CFR Part 93, entitled “Public Health Service Policies on Research Misconduct”.

n. “Plagiarism”: The appropriation of another person’s ideas, processes, results, or words
without giving appropriate credit.

o. “Preponderance of the evidence”: proof by information that compared with that opposing it,
leads to the conclusion that the fact issue is more probably true than not.

p. “Relevant Governmental Agencies”: Federal and/or state agencies providing financial
support for the University research activities which are governed by research misconduct
regulations (e.g. NSF, NIH, etc).

q. “Research Integrity Officer (RIO)”: The University official designated by the Vice President for
Research with responsibilities related to administrative handling of allegations of research
misconduct.

r. “Research Misconduct”: Fabrication, falsification, plagiarism in proposing, performing, or
reviewing research, or in reporting research results. Research misconduct does not include
honest error or differences of opinion. To constitute research misconduct, the behavior must
(1) represent a significant departure from accepted practices of the relevant research
community; and, (2) be committed intentionally, knowingly, or with reckless disregard for the integrity of the research; and, (3) the allegation is proven by the preponderance of evidence. [Federal Register: September 1, 2005 (Volume 70, Number 169)].

s. “Research Record”: Any data, document, computer file, computer diskette, electronic information storage device, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of research misconduct. A research record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and, subject research files.

t. “Respondent”: The person against whom an allegation of research misconduct is directed or the person who is the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

u. “Retaliation”: Any action that adversely affects the employment or other status of an individual that is taken by the University, an institution or an employee because the individual has, in good faith, made an allegation of research misconduct or of inadequate University response thereto, or has cooperated in good faith with an investigation of such allegation.

6.3 Evidentiary Standards

6.3.1 The following evidentiary standards apply to findings:

a. Standard of proof. A University finding of research misconduct must be proved by a preponderance of the evidence.

b. Burden of proof.

i. The University has the burden of proof for making a finding of research misconduct. The destruction, absence of, or respondent’s failure to provide research records adequately documenting the questioned research is evidence of research misconduct where the University establishes by a preponderance of the evidence that the respondent intentionally, knowingly, or recklessly had research records and destroyed them, had the opportunity to maintain the records but did not do so, or maintained the records and failed to produce them in a timely manner and that the respondent’s conduct constitutes a significant departure from accepted practices of the relevant research community.

ii. The respondent has the burden of going forward with and the burden of proving, by a preponderance of the evidence, any and all affirmative defenses raised. In determining whether the University has carried the burden of proof imposed by this section, the finder of fact shall give due consideration to admissible, credible evidence of honest error or difference of opinion presented by the respondent.

iii. The respondent has the burden of going forward with and proving by a preponderance of the evidence any mitigating factors that are relevant to a decision to impose administrative actions following a research misconduct proceeding.
6.4.1 Allegations of research misconduct should be placed in writing and brought to the attention of the Vice President for Research. The Vice President for Research will bring such allegations to the attention of the appropriate Dean, department Chair, principal investigator of the research program and any researchers affected by the allegations. The Vice President for Research, with due regard for the reputations of all parties involved, including those who in good faith reported the apparent misconduct, will immediately conduct an assessment of the allegations.

6.4.2 When the University's review of the allegation identifies non-research misconduct issues, the Vice President for Research should refer these matters to the proper University or Federal office for action.

6.5 Responding to Allegations

6.5.1 In responding to allegations of research misconduct, the Vice President for Research will make diligent efforts to ensure that the following functions are performed:

a. Any allegation assessment, inquiry, or investigation is conducted in a timely, objective, thorough, and competent manner.

b. Reasonable precautions are taken to avoid bias and real or apparent conflicts of interest on the part of those involved in conducting the inquiry or investigation.

c. Immediate notification is provided to ORI or other relevant governmental agency if:
   i. there is an immediate health hazard involved;
   ii. there is an immediate need to protect Federal funds or equipment;
   iii. there is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations, as well as his/her co-investigators and associates, if any;
   iv. it is probable that the alleged incident is going to be reported publicly;
   v. the allegation involves a public health sensitive issue, e.g., a clinical trial; or,
   vi. there is a reasonable indication of a possible Federal criminal violation. In this instance, the University must inform ORI and/or any other relevant governmental agency within 24 hours of obtaining that information.

d. Interim administrative actions are taken, as appropriate, to protect Federal funds and the public health, and to ensure that the purposes of the Federal financial assistance are carried out.

6.6 Preliminary Assessment into Allegations

6.6.1 Upon receiving an allegation of research misconduct, the Vice President for Research will immediately assess the allegation to determine whether there is sufficient evidence to warrant an inquiry, whether PHS support or applications for funding or other relevant governmental agencies are involved, and whether the allegation falls under the definition of research misconduct.

6.7 Conducting the Inquiry

6.7.1 Following the preliminary assessment, if the Vice President for Research determines that the allegation provides sufficient information to allow specific follow-up, and falls under the definition of research misconduct, the Vice President for Research will notify and review the preliminary assessment with the Provost. With concurrence from the Provost, the Vice President for Research and the RIO will immediately initiate the inquiry process. In initiating the inquiry, the Vice President for Research and/or
the RIO should identify clearly the original allegation and any related issues that should be evaluated. The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence of possible research misconduct to warrant an investigation. The purpose of the inquiry is not to reach a final conclusion about whether misconduct definitely occurred or who was responsible. The findings of the inquiry must be set forth in an inquiry report.

6.7.2 The Vice President for Research will determine whether any University affiliated organization/institution is also involved in the research thus possibly warranting a joint inquiry. If so, the appropriate affiliated organizational or institutional official should be contacted. Factors to be considered in the decision to conduct a joint inquiry would include source of pay for the investigator, presence or absence of joint appointment, presence or absence of “Without Pay” (WOC) appointments at organizations, source of funding for the research, site where the research was conducted, subject population involved, etc. After consideration and discussion of these factors, the decision on whether a joint investigation is indicated would be made. If a joint investigation is warranted, a decision on which organization has the lead should be made. In most other scenarios with other affiliated organizations, the University would be the lead organization.

6.7.3 As soon as practical after the Vice President for Research determines that an inquiry is required, the Vice President for Research and/or the RIO will:

1. Secure the relevant research records;
2. Notify the President, the Provost, the Office of Legal Affairs, and the respondent;
3. Appoint a person or persons to conduct an initial inquiry; and,
4. Notify ORI if PHS support is involved, and other relevant governmental agencies, if any of the conditions listed above under section 6.5.1 (c) exist.

6.7.4 The Vice President for Research may consult with ORI or other relevant governmental agencies at any time regarding appropriate procedures to be followed.

6.8 Notification of the Respondent

6.8.1 The Vice President for Research and/or the RIO will notify the respondent in writing of the opening of the inquiry, or this notification may be sent simultaneously with sequestering of records. See “Sequestration of Research Records” below.

6.8.1.1 The notification should identify the research project in question and the specific allegations; define research misconduct; identify the funding involved; list the name or names of the person or persons conducting the initial inquiry and expert consultants (if any); explain the respondent's opportunity to challenge the person or persons designated for bias or conflict of interest, to be assisted by legal counsel, to be interviewed, to present evidence to the person or persons designated, and to comment on the inquiry report; address the respondent's obligation as an employee of the University to cooperate; and, describe the University's policy on protecting the complainant against retaliation and the need to maintain the complainant's confidentiality during the inquiry and any subsequent proceedings.

6.9 Potential Respondents

6.9.1 If no specific respondent has been identified at this stage of the process, the Vice President for Research and/or the RIO will notify each potential respondent that an inquiry will be undertaken, e.g., each co-author on a questioned article or each investigator on a questioned grant application.

6.10 Sequestration of the Research Records
6.10.1 To the extent it has not already been done at the allegation stage, the University must, on or before the date on which the respondent is notified or the inquiry begins, whichever is earlier, promptly take all reasonable and practical steps to obtain custody of all research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence, and sequester them in a secure manner. Where the research records or evidence encompass scientific instruments shared by a number or users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments.

6.10.2 Research records produced under grants and cooperative agreements are the property of the University, and employees cannot interfere with the University's right of access to them. Under contracts, certain research records may belong to PHS or another funding agency, but the University will be provided access to contract records in the custody of the University for purposes of reviewing misconduct allegations.

6.10.3 The Vice President for Research and/or the RIO should notify the respondent that an inquiry is being initiated simultaneously with the sequestration so that the respondent can assist with location and identification of the research records. The Vice President for Research and/or the RIO should obtain the assistance of the respondent's supervisor and legal counsel in this process, as necessary. If the respondent is not available, sequestration may begin in the respondent's absence. The respondent should not be notified in advance of the sequestration of research records to prevent questions being raised later regarding missing documents or materials and to prevent accusations against the respondent of tampering with or fabricating data or materials after the notification. In addition to securing records under the control of the respondent, the Vice President for Research and/or the RIO may need to sequester records from other individuals, such as co-authors, collaborators, or complainants. A copy of each sequestered record will be provided to the individual from whom the record is taken within as soon as reasonably possible.

6.10.3.1 A dated receipt should be signed by the sequestering official and the person from whom an item is collected, and a copy of the receipt should be given to the person from whom the record is taken. If it is not possible to prepare a complete inventory list at the time of collection, one should be prepared as soon as possible, and then a copy should be given to the person from whom the items were collected.

6.10.4 The Vice President for Research and/or the RIO will lock records and materials in a secure place. The persons from whom items are collected may be provided with a copy of any item. Where feasible, that person will have access to his or her own original items under the direct and continuous supervision of a University official. This will ensure that a proper chain of custody is maintained and that the originals are kept intact and unmodified.

6.11 Designation of an Official or a Committee to Conduct the Inquiry

6.11.1 The Vice President for Research is responsible for conducting or designating others to conduct the inquiry. The person or persons designated to conduct the inquiry will obtain the necessary expert and technical advice to consider properly all research issues.

6.12 Inquiry

6.12.1 The Vice President for Research and/or the RIO will take reasonable steps to ensure that those conducting the inquiry and any expert consultants have no bias or personal or professional conflict of interest with the respondent, complainant, or the case in question. In making this determination, the Vice President for Research and/or the RIO will consider whether the individual (or any members of his or her immediate family):

a. Has any financial involvement with the respondent or complainant;
b. Has been a co-author on a publication with the respondent or complainant;

c. Has been a collaborator or co-investigator with the respondent or complainant;

d. Has been a party to a scientific controversy with the respondent or complainant;

e. Has a supervisory or mentor relationship with the respondent or complainant;

f. Has a special relationship, such as a close personal friendship, kinship, or a physician/patient relationship with the respondent or complainant; or,

g. Falls within any other circumstance that might appear to compromise the individual’s objectivity in reviewing the allegations.

6.12.2 The Vice President for Research and/or the RIO will notify the respondent of the proposed person or persons to conduct the inquiry within ten (10) business days. If the respondent submits a written objection to anyone appointed based on bias or conflict of interest within five (5) business days, the Vice President for Research will immediately determine whether to replace the challenged member or expert with a qualified substitute.

6.12.3 The person or persons conducting the inquiry and any expert consultants will agree in writing to observe the confidentiality of the proceeding and any information or documents reviewed as part of the inquiry. Outside of the official proceedings of the inquiry they may not discuss the proceedings with the respondent, complainant, witnesses, or anyone not authorized by the Vice President for Research to have knowledge of the inquiry.

6.12.4 The Vice President for Research and/or the RIO Office, in consultation with the legal counsel, will provide staff assistance and guidance to the person or persons conducting the inquiry and the experts on the procedures for conducting and completing the inquiry, including procedures for maintaining confidentiality, conducting interviews, analyzing data, and preparing the inquiry report.

6.12.5 Charge

6.12.5.1 The Vice President for Research will prepare a charge for the person or persons conducting the inquiry that describes the allegations and any related issues identified during the allegation assessment and states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the respondent, complainant, and key witnesses to determine whether there is sufficient evidence of possible research misconduct to warrant an investigation. The purpose is not to determine whether research misconduct definitely occurred or who was responsible.

6.12.5.2 The Vice President for Research and legal counsel are available throughout the inquiry to advise those conducting the inquiry as needed.

6.12.6 General Approaches to Conducting the Inquiry

6.12.6.1 All necessary steps must be taken to avoid bias or conflict of interest between those conducting the inquiry and expert consultants and the respondent, and complainant.

6.12.6.2 The Vice President for Research and the RIO must be advised of any necessary interim actions to protect the research funds, human or animal subjects, or other steps required by regulation or policy.

6.12.7 General Approaches to Conducting an Interview
6.12.7.1 Interviews with the respondent will be transcribed or recorded. Interviews with anyone else will be recorded. A transcript or summary of the interview will be provided to each witness for review and correction of errors. Witnesses may add comments or information. Changes to the transcript or summary will be made only to correct factual errors.

6.12.7.1.1 Witnesses should be advised that the proceedings are confidential and that they should not discuss the inquiry or their interview with anyone else other than their counsel or adviser.

6.12.7.1.2 Witnesses may be accompanied and advised by legal counsel or by a non-legal adviser who is not a principal or witness in the case. However, the counsel or adviser may only advise the witness and may not participate directly in the interview. Witnesses will respond directly to the interview questions.

6.12.7.2 If the respondent admits to the misconduct, the respondent should be asked immediately to sign a statement attesting to the occurrence and extent of the misconduct. Normally, an admission is a sufficient basis to proceed directly to an investigation. However, the admission may not be a sufficient basis for closing a case. Further investigation may be needed to determine the extent of the misconduct or to explore additional issues. If an admission is made, the Vice President for Research or the Office of Legal Affairs may seek advice from ORI, or other relevant governmental agencies, in determining whether there is a sufficient basis to close a case, after the admission is fully documented and all appropriate procedural steps are taken. If the case is closed, the report should be forwarded to the Vice President for Research as the Deciding Official with recommendations for appropriate University actions and then, if applicable, submitted to ORI or the other relevant governmental agency for review. If the respondent admits to the misconduct, the committee should consult with the Vice President for Research and the Office of Legal Affairs immediately.

6.12.7.3 After consultation with the Vice President for Research and the Office of Legal Affairs, the persons designated to conduct the inquiry will decide whether there is sufficient evidence of possible research misconduct to recommend further investigation. The scope of the inquiry does not include deciding whether misconduct occurred or conducting exhaustive interviews and analyses.

6.12.8 Inquiry Report

6.12.8.1 A written inquiry report must be prepared that states the name and title of the person or persons conducting the inquiry and expert consultants, if any; the allegations; if applicable the PHS support; a list of the research records reviewed; summaries of any interviews; a description of the evidence in sufficient detail to demonstrate whether an investigation is warranted; and, their determination as to whether an investigation is recommended and whether any other actions should be taken if an investigation is not recommended. The Office of Legal Affairs will review the report for legal sufficiency. All relevant dates should be included in the report.

6.12.8.2 The Vice President for Research and/or the RIO will provide the respondent with a copy of the draft inquiry report for comment and rebuttal.

6.12.8.2.1 Confidentiality: The Vice President for Research and/or the RIO may establish reasonable conditions for review to protect the confidentiality of the draft report.

6.12.8.3 Receipt of Comments:

6.12.8.3.1 Within ten (10) business days of their receipt of the draft report, the respondent will provide their comments, if any, to those conducting the inquiry.

6.12.8.3.2 Any comments that the respondent submits on the draft report will become part of the final report and record.

6.12.8.3.3 Based on the comments, the inquiry committee may revise the report as appropriate.
6.12.8.4 The person or persons conducting the inquiry will transmit the final report and any comments to the Vice President for Research, who will make the determination of whether findings from the inquiry provide sufficient evidence of possible research misconduct to justify conducting an investigation. The inquiry is completed when the Vice President for Research makes this determination.

6.12.8.5 The Vice President for Research will notify both the respondent and the complainant in writing of their decision of whether to proceed to an investigation and will remind them of their obligation to cooperate in the event an investigation is opened.

6.12.8.6 The University must provide the respondent an opportunity to review and comment on the inquiry report.

6.12.8.7 If the allegations warrant an investigation and government funding is involved, then the University must provide ORI or the relevant governmental agencies, within thirty (30) business days, with the written findings and a copy of the inquiry report, and the respondent’s comments.

6.12.8.7.1 The report to ORI or other relevant governmental agency must include the following:
   a. The name and position of the respondent;
   b. A description of the allegations of research misconduct;
   c. The type of support, including, for example, grant numbers, grant applications, contracts, and publications listing PHS support;
   d. The basis for recommending that the alleged actions warrant an investigation; and,
   e. Any comments on the report by the respondent or the complainant.

6.12.8.7.2 The institution must provide the following information to ORI on request:
   a. The institutional policies and procedures under which the inquiry was conducted;
   b. The research records and evidence reviewed, transcripts or recordings of any interviews, and copies of all relevant documents; and,
   c. The charges for the investigation to consider.

If the University makes a decision not to investigate, the University must keep sufficiently detailed documentation of inquiries to permit a later assessment by ORI or other relevant governmental agency of the reasons why the University decided not to conduct an investigation. The University must keep these records in a secure manner for at least seven (7) years after the termination of the inquiry, and upon request, provide them to ORI or other authorized relevant governmental agency personnel.

6.12.8.8 The University must complete the inquiry within sixty (60) business days of its initiation unless circumstances clearly warrant a longer period. If the inquiry takes longer than sixty (60) days to complete, the inquiry record must include documentation of the reasons for exceeding the sixty (60) day period.

6.12.8.9 The University must notify ORI and other PHS relevant governmental agencies, as relevant, of any special circumstances that may exist. Examples of special circumstances are:
   a. Health or safety of the public is at risk, including an immediate need to protect human or animal
subjects.

b. Government resources or interests are threatened.

c. Research activities should be suspended.

d. There is reasonable indication of possible violations of civil or criminal law.

e. Federal action is required to protect the interests of those involved in the research misconduct proceeding.

f. The University believes the research misconduct proceeding may be made public prematurely so that HHS may take appropriate steps to safeguard evidence and protect the rights of those involved.

g. The research community or public should be informed.

6.12.9 Referral to Other Officials or Agencies

Information obtained during the inquiry regarding allegations other than research misconduct involving government funds should be referred to the responsible University officials and relevant government agencies.

6.13 Conducting the Investigation

6.13.1 The investigation should begin thirty (30) business days after determining that an investigation is warranted, and all aspects of the investigation completed within 120 business days from when the investigation started.

6.13.2 The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether research misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible research misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged research misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation will be set forth in an investigation report.

6.13.3 The Vice President for Research and/or the RIO will immediately sequester any additional pertinent research records that were not previously sequestered during the inquiry. This sequestration should occur before or at the time the respondent is notified that an investigation has begun. The need for additional sequestration of records may occur for any number of reasons, including the University's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

6.13.4 The Vice President for Research and/or the RIO will notify the respondent as soon as reasonably possible after the determination is made to open an investigation. The notification should include:

   a. A copy of the inquiry report;

   b. The specific allegations;

   c. The sources of government funding if applicable;
d. The definition of research misconduct;

e. The procedures to be followed in the investigation, including the appointment of the investigation committee and experts;

f. The opportunity of the respondent to be interviewed, to provide information, to be assisted by counsel, to challenge the membership of the committee and experts based on bias or conflict of interest, and to comment on the draft report;

g. The fact that ORI will perform an oversight review of the report regarding PHS issues; and,

h. An explanation of the respondent's right to request a hearing before the HHS Departmental Appeals Board if there is an ORI finding of misconduct under the PHS definition.

6.13.5 The Vice President for Research is responsible for conducting or designating others to conduct the investigation.

6.13.5.1 In complex cases, the Vice President for Research will normally appoint a committee of three (3) or more persons to conduct the investigation.

6.13.5.2 In cases in which the allegations and apparent evidence are straightforward, such as an allegation of plagiarism or simple falsification or an admission of misconduct by the respondent, the Vice President for Research may choose to conduct the investigation directly or designate another qualified individual to do so. In such cases, the investigation official will nevertheless obtain the necessary expert and technical advice to consider properly all scientific issues.

6.13.6 The investigation, whether conducted by a committee or an individual, will follow each procedural step set forth below.

6.13.6.1 Appointment of the Investigation Committee

If an investigation committee is to be appointed, the Vice President for Research will use the following procedures:

6.13.6.1.1 The Vice President for Research, in consultation with the RIO and other University officials as appropriate, will appoint the investigation committee and the committee chair within ten (10) business days of the notification to the respondent or as soon thereafter as practicable. The investigation committee should consist of at least three (3) individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegations, interview the principals and key witnesses, and conduct the investigation. These individuals may be scientists, administrators, subject matter experts, lawyers, or other qualified persons, and they may be from inside or outside the University. Individuals appointed to the investigation committee may also have served on the inquiry committee.

6.13.6.1.2 The Vice President for Research and/or the RIO will notify the respondent of the proposed committee membership within five (5) business days after their appointment. If the respondent submits a written objection to any appointed member of the investigation committee or expert based on bias or conflict of interest, the Vice President for Research will promptly determine whether to replace the challenged member or expert with a qualified substitute.

6.13.6.1.3 Members of the committee and experts will agree in writing to observe the confidentiality of the proceedings and any information or documents reviewed as part of the investigation. Outside of the official proceedings of the committee, they may not discuss the proceedings with the respondent, complainant, witnesses, or anyone not authorized by the Vice
6.13.7 Charge to the Committee and the First Meeting

6.13.7.1 The Vice President for Research and/or the RIO will define the subject matter of the investigation in a written charge to the committee that describes the allegations and related issues identified during the inquiry, defines research misconduct, and identifies the name of the respondent. The charge will state that the committee is to evaluate the evidence and testimony of the respondent, complainant, and key witnesses to determine whether, based on a preponderance of the evidence, research misconduct occurred and, if so, to what extent, who was responsible, and its seriousness.

6.13.7.2 During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the committee will notify the Vice President for Research and/or the RIO, who will determine whether it is necessary to notify the respondent of the new subject matter or to provide notice to additional respondents.

6.13.7.3 The Vice President for Research and/or the RIO, with consultation from the Office of Legal Affairs, will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of these instructions and, where PHS funding is involved, the PHS regulation.

6.13.8 Developing an Investigation Plan

6.13.8.1 At the initial meeting, the committee should begin development of its investigative plan and complete it as soon as reasonably possible. The investigation plan will include an inventory of all previously secured evidence and testimony; a determination of whether additional evidence needs to be secured; what witnesses need to be interviewed, including the complainant, respondent, and other witnesses with knowledge of the research or events in question; a proposed schedule of meetings, briefing of experts, and interviews; anticipated analyses of evidence (scientific, forensic, or other); and, a plan for the investigative report.

6.13.9 General Approaches to Conducting the Investigation

During the investigation, the committee will take the following steps:

6.13.9.1 All necessary steps must be taken to avoid bias or conflict of interest between the committee and experts and the respondent, complainant, and witnesses.

6.13.9.2 The Vice President for Research must be advised of any necessary interim actions to protect the research funds, human or animal subjects, or other steps required by regulation or policy.

6.13.9.3 The Vice President for Research and the Office of Legal Affairs should be consulted throughout the investigation on compliance with these procedures and applicable PHS or other federal regulations, appropriate investigatory and interviewing methods and strategies, legal issues, and the standard of proof. The Vice President for Research and Office of Legal Affairs will be available throughout the investigation to advise the committee.

6.13.10 Reviewing the Evidence

The investigation committee will obtain and review all relevant documentation and perform or cause to be performed necessary analyses of the evidence, including scientific, forensic, statistical, or other analyses as needed. Also, the committee should pursue diligently all significant issues and leads discovered that are determined relevant to the investigation.
6.13.11 Conducting Interviews

The investigation committee will conform to the following guidelines:

6.13.11.1 The investigation committee will conduct the interviews as described in this policy, except that at the investigative stage interviews should be in depth and all significant witnesses should be interviewed. Each witness should have the opportunity to respond to inconsistencies between his or her testimony and the evidence or other testimony, subject to the need to take reasonable steps to maintain the confidentiality of the testimony of the respondent and other witnesses.

6.13.11.2 The investigation committee will prepare carefully for each interview. All relevant documents and research data should be reviewed in advance and specific questions or issues that the committee wants to cover during the interview should be identified. The committee should appoint one individual to take the lead on each interview. If significant questions or issues arise during an interview that require committee deliberation, the committee should take a short recess to discuss the issues. Committee deliberations should never be held in the presence of the interviewee.

6.13.11.3 The investigation committee will conduct all interviews in a professional and objective manner, without implying guilt or innocence on the part of any individual.

6.13.11.4 Any interview with the respondent will be transcribed or recorded. Interviews with anyone else will be recorded. A transcript or summary of the interview will be provided to each witness for review and correction of errors. Witnesses may add comments or additional information, but changes to the transcript or summary will only be made to correct factual errors.

6.13.12 If the respondent admits to the misconduct, he or she should be asked immediately to sign a statement attesting to the occurrence and extent of the misconduct, acknowledging that the statement was voluntary and stating that the respondent was advised of his or her right to seek the advice of counsel. The committee should consult with the Office of Legal Affairs on the specific form and procedure for obtaining this statement. The admission may not be used as a basis for closing the investigation unless the committee has adequately determined the extent and significance of the misconduct and all procedural steps for completion of the investigation have been met. The committee may ask the Vice President for Research or Office of Legal Affairs to consult with ORI or other relevant governmental agencies when deciding whether an admission has adequately addressed all the relevant issues such that the investigation can be considered completed. The investigation should not be closed unless the respondent has been appropriately notified and given an opportunity to comment on the investigative report. If the case is considered complete, it should be forwarded to the Vice President for Research as the Deciding Official with recommendations for appropriate University actions.

6.13.13 Committee Deliberations

6.13.13.1 In reaching a conclusion on whether there was research misconduct and who committed it, the burden of proof is on the University to support its conclusions and findings by a preponderance of the evidence.

6.13.13.2 The committee will consider whether falsification, fabrication, or plagiarism occurred in proposing, conducting, or reporting research or whether and why there was a serious deviation from accepted practices in the scientific community at the time the actions were committed.

6.13.13.3 The committee will consider whether there is sufficient evidence of intent such that the University can meet its burden of proving misconduct by a preponderance of the evidence. The committee will also consider whether the respondent has presented substantial evidence of honest error or honest differences in interpretations or judgments of data, such that research misconduct cannot be proven by a preponderance of the evidence.
6.13.14 The Investigation Report

6.13.14.1 The final University investigation report must be in writing and include:

a. Allegations. Describe the nature of the allegations of research misconduct.

b. Governmental Support. Describe and document any governmental agency support, including, for example, any grant numbers, grant applications, contracts, and publications listing PHS support.

c. University charge. Describe the specific allegations of research misconduct for consideration in the investigation.

d. Policies and procedures. If not already provided with the inquiry report, include the University policies and procedures under which the investigation was conducted.

e. Research records and evidence. Identify and summarize the research records and evidence reviewed, and identify any evidence taken into custody but not reviewed.

f. Statement of findings. For each separate allegation of research misconduct identified during the investigation, provide a finding as to whether research misconduct did or did not occur, and if so:

i. Identify whether the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;

ii. Summarize the facts and analysis which support the conclusion and consider the merits of any reasonable explanation by the respondent;

iii. Identify the specific governmental agency support;

iv. Identify whether any publications need correction or retraction;

v. Identify the person(s) responsible for the misconduct; and,

vi. List any current support or known applications or proposals for support that the respondent has pending with other government agencies.

g. Comments. Include and consider any comments made by the respondent and complainant on the draft investigation report.

h. Maintain and provide records. Maintain and provide to ORI or other relevant governmental agencies upon request all relevant research records and records of the University’s research misconduct proceeding, including results of all interviews and the transcripts or recordings of such interviews.

6.13.14.2 Documenting the Investigative File

6.13.14.2.1 The investigation committee should maintain an index of all the relevant evidence it secured or examined in conducting the investigation, including any evidence that may support or contradict the report’s conclusions. Evidence includes, but is not limited to, research records, transcripts or recordings of interviews, committee correspondence, administrative records, grant applications and awards, manuscripts, publications, and expert analyses.

6.13.14.2.2 The purpose of the documentation is to substantiate the investigation’s findings. After completion of a case and all ensuing related actions, the Vice President for Research will prepare a
complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the Vice President for Research. The Vice President for Research will keep the file for seven (7) years after completion of the case to permit later assessment of the case. ORI or other authorized government agency personnel will be given access to the records upon request.


The draft investigation report will be reviewed as follows:

6.13.14.3.1 The Vice President for Research will provide the respondent with a copy of the draft investigation report and, concurrently, a copy of, or supervised access to, the evidence on which the report is based. The comments of the respondent on the draft report, if any, must be submitted within thirty (30) business days of the date on which the respondent received the draft investigation report.

6.13.14.3.2 The complainant may be kept apprised of the status of the investigation if requested (ongoing, completed, etc.)

6.13.14.3.3 The draft investigation report will be transmitted to the Office of Legal Affairs for a review of its legal sufficiency. Comments should be incorporated into the report as appropriate.

6.13.14.4 Confidentiality: In distributing the draft report, or portions thereof, to the respondent the Vice President for Research will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality.

6.14 University Review and Decision

6.14.1 Based on a preponderance of the evidence, the Vice President for Research will make the final determination whether to accept the investigation report, its findings, and the recommended University actions. If this determination varies from that of the investigation committee, the Vice President for Research will explain in detail the basis for rendering a decision different from that of the investigation committee. The Vice President for Research's explanation should be consistent with definition of research misconduct, the University's policies and procedures, the evidence reviewed and analyzed by the investigation committee. The findings of the investigation committee and the Vice President for Research's final determination regarding the report will be provided to the Provost. The Provost will review and assess the final determination made by the Vice President for Research and make a recommendation to the President on the final determination of the consequences for the respondent if the determination of research misconduct was made. The Provost could also request additional fact-finding or analysis. The Vice President for Research's determination on the misconduct committee report together with the report constitutes the final investigation report.

6.14.2 If relevant, the Vice President for Research will determine whether the complainant's allegations of research misconduct were made in good faith. If the Vice President for Research determines an allegation was not made in good faith, the Provost will review and determine if any recommendation for administrative action against the complainant should be made to the President.

6.14.3 When a final decision on the case has been reached, the Vice President for Research and/ or the RIO will notify the respondent in writing. In addition, the Vice President for Research will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The Vice President for Research is responsible for ensuring compliance with all notification requirements of ORI, and all other relevant governmental agencies.

6.15 Transmittal of the Final Investigation Report
6.15.1 After comments have been received and the necessary changes have been made to the draft report, the Vice President for Research should transmit the final report with attachments and any appeals, including the respondent's comments, to ORI or other relevant governmental agencies, as applicable. In addition, the final University action must:

a. State whether the University found research misconduct, and if so, who committed the misconduct.

b. State whether the University accepts the investigation's findings.

c. Describe any pending or completed administrative actions against the respondent.

6.15.2 Time Limit for Completing the Investigation Report

The final investigation report will be submitted to ORI or to other relevant governmental agencies within 120 days of the first meeting of the investigation committee, unless the University requests a written request for extension and the relevant agency grants the extension.

6.16 University Administrative Actions

6.16.1 The University will take appropriate administrative actions against individuals when an allegation of misconduct has been substantiated.

6.16.2 If the Provost determines that the alleged research misconduct is substantiated by the findings, he or she will recommend to the President the appropriate actions to be taken with regard to the respondent. The Provost may consult with the department Chair, Dean, Vice President for Research, and the Office of Legal Affairs, prior to making a recommendation to the President for University administrative action. The actions may include, but are not limited to:

a. Withdrawal or correction of all pending or published abstracts and papers emanating from the research where research misconduct was found.

b. Initiation of disciplinary or termination procedures pursuant to the established due process procedures of the University and the Board of Regents of the University of Texas System.

6.17 Other Considerations

6.17.1 The termination of the respondent's University employment, by resignation or otherwise, before or after an allegation of possible research misconduct has been reported, will not preclude or terminate the misconduct procedures.

6.17.2 If the University finds no misconduct and ORI or other relevant governmental agency concurs, after consulting with the respondent, the Vice President for Research will undertake reasonable efforts to restore the respondent's reputation. Depending on the particular circumstances, the Vice President for Research should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of research misconduct was previously publicized, or expunging all reference to the research misconduct allegation from the respondent's personnel file. Any University actions to restore the respondent's reputation must first be approved by the Provost.

6.17.3 If the respondent, without admitting to the misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after an allegation has been reported, or during an inquiry or investigation, the inquiry or investigation may proceed. If the respondent refuses to participate in the process after resignation, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's
review of all the evidence.

6.17.4 Regardless of whether the University or ORI or other relevant governmental agency determines that research misconduct occurred, the Vice President for Research will undertake reasonable efforts to protect complainants who made allegations of research misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the Provost will determine what steps, if any, are needed to restore the position or reputation of the complainant. The Vice President for Research is responsible for implementing any steps the Provost approves. The Vice President for Research will also take appropriate steps during the inquiry and investigation to prevent any retaliation against the complainant.

6.17.5 If the Vice President for Research determines an allegation was not made in good faith, the Provost will make a recommendation to the President regarding any administrative action that should be taken against the complainant.

6.17.6 University officials will take interim administrative actions, as appropriate, to protect Federal funds and ensure that the purposes of the Federal financial assistance are carried out.

6.18 Records Retention

6.18.1 The Vice President for Research will keep the complete file on all misconduct inquiries and investigations regardless of funding, including the records of any inquiry or investigation and copies of all documents and other materials furnished, for at least seven (7) years after completion of the case, or if ORI or other relevant governmental agency has advised the institution in writing that it no longer needs to retain the records. ORI or other relevant governmental agency personnel will be given access to the records upon request.

Chapter 7: Employment Under a Contract or Grant

7.1 General Policy

All appointments to positions funded under contracts or grants are contingent upon receipt of contract or grant funding specifically for that purpose. All such appointments terminate upon completion of the term of the contract or grant under which the appointment was made, early termination of the contract or grant by the University or the funding party, or upon exhaustion of the available funding for the position provided for under that contract or grant, whichever occurs first.

7.1.1 Tenured faculty members and non-tenured faculty who have not been provided required notice under Section III, Chapter 4.4, revert to the previous faculty position held before appointment to a contract or grant-funded position upon termination of funding for the grant or contract or exhaustion of funding designated for the position.

7.1.2 Non-faculty employees, including classified personnel, do not revert to any previously held or replacement employment position at the University except by prior written agreement and subject to the availability of regular state funding for the previous or replacement position.

See Section V, Human Resources of this Handbook for other policies regarding University employment but specifically:

a. Employment of Non-Citizens at Chapter 3.3

b. Security Sensitive Positions at Chapter 3.4

c. Criminal Background Checks at Chapter 12
Chapter 8: Policy for the Care and Use of Animals in Research and Teaching

The University complies with all applicable provisions of the Public Health Service Policy on Humane Care and Use of Laboratory Animals; the Guide for the Care and Use of Laboratory Animals; Animal Welfare Act and Regulations (AWAR); Health Research Extension Act of 1985 Public Law 99-158 “Animals in Research”, “U.S. Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research, and Training”; all other Federal statutes and regulations relating to the care and use of animals; and the University’s Assurance of Compliance with Public Health Service Policy on Humane Care and Use of Laboratory Animals.

8.1 Institutional Responsibility

The University accepts the responsibility to provide uniform and consistent standards that are essential to the development, implementation, and conduct of a quality animal care and use program through proactive self-regulation of all activities related to the proper care, use, and humane treatment of animals used in research, testing, and education.

8.2 Institutional Policy

8.2.1 All research sponsored by or conducted at the University involving vertebrate animals, whether funded or non-funded, conducted by faculty, students, staff, using any property or facility owned or controlled by the University will be conducted in compliance with the Public Health Service Policy on Humane Care and Use of Laboratory Animals and all other applicable federal statutes, regulations and policies.” Research involving vertebrate animals will not be conducted unless the requirements of these federal requirements have been satisfied and written certification of the University’s review and approval of the research is obtained.

8.2.2 All requests for vertebrate animal use will be submitted as a proposal and reviewed by the Institutional Animal Care and Use Committee (IACUC). Research involving animals is not permitted to begin until the IACUC has approved the research proposal.

8.2.3 This policy applies to all research involving vertebrate animal subjects, regardless of sponsorship, if:

   a. The research is approved by the institution’s IACUC; or
   b. The research is conducted by or under the direction of any employee, or student, or agents of the University in connection with his or her institutional responsibilities; or
   c. The research is conducted using any property or facility owned or controlled by the University.

8.2.4 The Vice President for Research is authorized to review all proposed research, and decide whether the University will permit the research, as appropriate to the role and scope of the University.

8.2.5 If allegations of animal mistreatment or protocol noncompliance are reported, the IACUC will conduct an investigation in accordance with procedures outlined in the institution’s Assurance of Compliance with Public Health Service Policy on Humane Care and Use of Laboratory Animals. Circumstances that will be reported in writing to the Office of Laboratory Animal Welfare (OLAW) by the Institutional Official, without delay, are: serious or continuing noncompliance with the PHS Policy; serious deviations from the Guide for the Care and Use of Laboratory Animals; and IACUC protocol suspensions.

8.2.6 Any person responsible for the design, conduct, or reporting of animal subject research that has an economic interest in, or acts as an officer or director of any outside entity whose financial interests
would reasonably appear to be affected by the research should be removed from the project, due to conflict of interest as provided in Chapter 2, Section IV, of this Handbook.

8.3 **Institutional Animal Care and Use Committee Procedures**

8.3.1 The Institutional Animal Care and Use Committee (IACUC) reviews all proposals involving the use of vertebrate animals. The IACUC meets monthly, and as needed for proposal review, policy development, and noncompliance investigations.

8.3.2 Principal Investigators consult with the Attending Veterinarian during proposal development for the use of vertebrate animals and submit a detailed proposal to the IACUC Office in the Office of Research and Sponsored Projects.

8.3.3 Proposals are made available for review by all members of the IACUC. Most proposals will initially undergo full-committee review at a convened meeting of a quorum of the IACUC. Proposals that are classified in United States Department of Agriculture Pain/Distress Categories A-C can be sent to designated review after the proposal has been made available to all members for a minimum of 4 working days. Proposals that are classified as Category D and E procedures are automatically slated for full-committee review, but can be referred to designated review after full-committee review if the proposal requires either modifications to secure approval or has been tabled for clarification. Changes to proposals (amendments) and annual progress reports must be submitted by the Principal Investigator(s) to the IACUC and are processed in the same manner as described above.

8.3.4 In addition to determining whether the proposal conforms with the Institution’s Assurance, the IACUC will consider each of the following criteria for review prior to approving the use of vertebrate animals in research:

a. The design and performance of procedures are based on relevance to human or animal health, advancement of knowledge, or the good of society;
b. The appropriate species and number of animals are to be used;
c. The living conditions of the animals are appropriate for the species and the appropriate husbandry will be directed and performed by qualified personnel;
d. Procedures are in place to avoid or minimize discomfort, distress, and pain to the animals;
e. Appropriate sedation, analgesia, or anesthesia are provided as needed unless justification for non-use is described in writing by the investigator;
f. Medical care is provided by a qualified veterinarian;
g. Research personnel are appropriately qualified and trained to perform any procedures relating to animals;
h. Humane endpoints have been established; and
i. Methods of euthanasia are consistent with the *AVMA Guidelines on Euthanasia*.

8.3.5 Notification of IACUC action regarding a proposal will be made in writing to the Principal Investigator(s) and the Vice President for Research. These actions include approval, modifications required to secure approval, withhold approval, or defer or table review. Proposals are approved for a three year period. All animal use projects must undergo continuing IACUC review via submission of an annual progress report by the Principal Investigator(s) to the IACUC.
Chapter 9: Policy for Compliance with U.S. Export Control Regulations

9.1 Policy

The University of Texas at El Paso (University) policy for compliance with federal export control regulations is based upon maintaining an open, fundamental research environment. The University encourages the exchange of research and technology, consistent with U.S. national security and nuclear nonproliferation objectives. Although most research at the University is excluded from the U.S. export control regulations, the University will comply with all export control regulations, including obtaining any required export licenses, for the transfer of export controlled materials, data, technology or equipment to a foreign national, either in the United States (U.S.) or abroad.

9.2 Background

The export of certain technologies, software and hardware is regulated and controlled by federal law for reasons of national security, foreign policy, prevention of the spread of weapons of mass destruction and for competitive trade reasons. The University and its employees are required to comply with the laws and implementing regulations issued by the government, including the Department of State, through its International Traffic in Arms Regulations (ITAR), the Department of Commerce, through its Export Administration Regulations (EAR), and the Department of the Treasury, through its Office of Foreign Assets Controls (OFAC).

While most research conducted on U.S. college and university campuses is excluded from these regulations under the Fundamental Research Exclusion (as discussed in Section 9.3.5 below), and is considered to be in the public domain, university research involving specified technologies controlled under the EAR and/or ITAR, or transactions and exchanges with designated countries, individuals and entities, may require the university to obtain prior approval from the appropriate agency before allowing foreign nationals to participate in controlled research, allowing the university to collaborate with a foreign company, and/or allowing the sharing of research—verbally or in writing—with persons who are not U.S. citizens or permanent residents. The consequences of violating these regulations can be quite severe, ranging from the loss of research contracts to monetary penalties and jail time for the individual who violated these regulations.

The export control regulations affect not only research conducted on campus, but also travel and the shipping of items outside the U.S. Simply traveling to certain sanctioned countries could require a license from OFAC. OFAC prohibits certain transactions and the exchange of goods and services with certain countries, designated persons and entities. Multiple lists of denied individuals and parties are maintained and enforced by federal agencies, including the Departments of State, Commerce and Treasury. Shipping items outside the U.S., as well as taking controlled items on a flight, could require a license from these agencies, even if the shipping or traveling is done in the conduct of research.

The University is committed to full compliance with all applicable U.S. export control laws and regulations. This Policy applies to all activities in which University resources are used. All University employees (defined in Section 9.3. below) are responsible for complying with this Policy, as well as with any procedures implementing this Policy. The University will provide export control training to its employees and offices whose job responsibilities may be affected by the export control regulations.
9.3 Explanation of Terms

9.3.1 Empowered Official (EO) means a U.S. citizen who is legally empowered in writing by the University to sign export license applications or other requests for approval on behalf of the University. The EO must understand the provisions and requirements of the various export control statues and regulations, as well as the criminal liability, civil liability and administrative penalties for violating the regulations. The EO has the independent authority to inquire about any aspect of a proposed export, to verify the legality of the transaction and the accuracy of the information to be submitted, and to refuse to sign a license application or other request for approval without prejudice or other adverse recourse. If ITAR-controlled work which requires a license is to be conducted, the University must first register with the Department of State before an EO can be appointed.

9.3.2 Export Controls Officer (ECO) means a person who is identified formally at the University for the purpose of institutional compliance with export control regulations.

9.3.3 Employees mean all University employees, full-time and part-time, including student employees, consultants, visitors and others using University resources.

9.3.4 Resources means all resources owned or leased by University, or otherwise used by the University, within the scope of research conducted at the University.

9.3.5 Fundamental Research means basic or applied research in science and engineering performed or conducted at an accredited institution of higher learning in the U.S. (for ITAR only – the EAR indicates that fundamental research is not determined by location) in which the resulting information is ordinarily published and shared broadly in the scientific community. The ITAR indicates that fundamental research is distinguished from research that results in information that is restricted for proprietary or national security reasons or pursuant to specific U.S. government access and dissemination controls. The EAR indicates that fundamental research is distinguished from research that results in information that is restricted for proprietary reasons. In other words, university research will not be considered fundamental research if:

9.3.5.1 The university or its researchers accept restrictions on the publication of the results of the project or activity (EAR and ITAR);
9.3.5.2 The sponsor requires prior approval before publication of the results of the project (EAR and ITAR), or;
9.3.5.3 The research is funded by the U.S. government, and specific access and dissemination controls protecting information resulting from the research are applicable (ITAR). Other restrictions, such as foreign national approval or a requirement that no foreign nationals work on a project, could invalidate the fundamental research exclusion.

9.3.6 ITAR Definition of Public Domain: ITAR defines public domain to mean information that is published and which is generally accessible or available to the public:

9.3.6.1. through sales at newsstands and bookstores;
9.3.6.2. through subscriptions that are available without restriction to any individual who desires to obtain or purchase the published information;
9.3.6.3. through second class mailing privileges granted by the U.S. Government;
9.3.6.4. at libraries open to the public or from which the public can obtain documents;
9.3.6.5. through patents available at any patent office;
9.3.6.6. through unlimited distribution at a conference, meeting, seminar, trade show or exhibition, generally accessible to the public, in the U.S.;
9.3.6.7. through public release (i.e., unlimited distribution) in any form (e.g., not necessarily in published form) after approval by the cognizant U.S. government department or agency;
9.3.6.8. through fundamental research in science and engineering at accredited institutions of higher learning in the U.S., where the resulting information is ordinarily published and shared broadly in the scientific community (see section 9.3.5 above).

9.3.7 EAR definition of Public Domain: Published Information and Software. Information is "published" when it becomes generally accessible to the interested public in any form, including but not limited to:

9.3.7.1. publication in periodicals, books, print, electronic, or any other media available for general distribution to any member of the public or to a community of persons interested in the subject matter, such as those in a scientific or engineering discipline, either free or at a price that does not exceed the cost of reproduction and distribution;
9.3.7.2. being readily available at libraries open to the public or at university libraries;
9.3.7.3. when issued patents or open patent applications are published and available at any governmental patent office, and;
9.3.7.4. when such information is released or publicly discussed at an open conference, meeting, seminar, trade show or other open gathering.

9.4 Authority

The President of the University shall appoint or approve the appointment of an ECO for purposes of compliance with U.S. export control regulations. The ECO shall receive authority from the President to perform his/her job duties.

9.5 Implementation of an Export Controls Compliance Program

9.5.1 The export regulations affect many areas across campus. To effectively implement this Policy, the ECO shall work with the Provost, appropriate Vice Presidents, College Deans, Department Heads, Directors, the Institutional Compliance Office, and the Office of Legal Affairs and/or the UT System Office of General Counsel to implement procedures that comply with the export control regulations. Areas, offices or activities that are affected by export controls compliance include, but are not limited to:

9.5.1.1. Research conducted by faculty and students on campus, as well as research projects conducted abroad (also includes foreign visiting scientists on campus);
9.5.1.2. Items shipped outside the U.S.;
9.5.1.3. International Programs – includes students and faculty studying or teaching abroad;
9.5.1.4. Purchasing and General Services
9.5.1.5. Accounts Payable (vendor payments);
9.5.1.6. Technology Commercialization/Technology Transfer;
9.5.1.7. Human Resources Department; and
9.5.1.8. Travel Office – for travel outside the U.S.

9.5.2 The Research Administrator (RA) assigned to a particular research award will review the terms of the award for provisions that restrict access to or publication of research and technical data, that limit the participation of foreign nationals in the research effort, or that otherwise render the exclusion from the export control regulations inapplicable. The results of such review will be indicated on a checklist developed by the University and designed to facilitate such review. The checklist will be signed and dated by the Research Administrator for each award.

9.5.3. The Research Administrator will contact the research sponsor to attempt to negotiate the removal or modification of unnecessary provisions in the contract or grant that would inhibit the University’s exclusion from export control regulations. If such negotiation does not result in the removal or modification of the identified clauses, the matter will be referred to the ECO/EO for further export control review, including a determination of whether the project falls under the EAR or the ITAR.
9.5.4. If the ECO/EO determines the project is export controlled, the Research Administrator and/or the ECO/EO will contact the Principal Investigator (PI) to determine if he/she plans to use foreign nationals (as employees or students) to work on the project. If the PI confirms that his/her intention is to hire foreign nationals for the project, then an export control license from the Department of Commerce or the Department of State may be needed, depending on the classification of the proposed research. If the project is export controlled, but no foreign nationals will be working on the project, the Principal Investigator PI, with the assistance of the Research Administrator, must develop a Technology Control Plan (TCP) to prevent any foreign national from gaining access to the controlled information. The PI may also choose to close the research effort due to the burdens or restrictions associated with complying with the export control regulations.

9.5.5 No work can begin or an account set up under an export controlled award or proposed award until a TCP is in place and/or any required export control license has been issued.

9.5.6. To implement this policy, the University will adopt an export controls compliance program that documents and disseminates information on roles, responsibilities and procedures for identification, approval, licensing and tracking of items or activities subject to the export control laws. The program will also include record-keeping, awareness training and procedures for self-assessment and monitoring.

9.5.7. The administrative unit at the University that is charged with the responsibility for implementation of this Policy and development of related procedures is the Office of Research and Sponsored Projects. Export control compliance affects the entire University, so the ECO/EO must work closely with the Provost, appropriate Vice Presidents, the Deans, the Office of Legal Affairs, and the Institutional Compliance Officer.

9.5.8. To monitor and review the University’s implementation of the Export Control Program, the University will establish an Export Control Committee empowered to review all university operations affected by export control. The committee will prepare an annual report to the President concerning the status of the University’s compliance with export control regulations. The committee will be comprised of the ECO and appointed representatives of:

a. ORSP (two representatives, one for research administration and one for technology transfer);
b. Accounts Payable;
c. Human Resources;
d. Information Security;
e. Institutional Compliance;
f. Mail services;
g. Office of International Programs;
h. Purchasing and General Services;
i. Shipping and receiving;
j. Study Abroad Office;
k. Travel Office; and
l. Others, as necessary.

9.6 Violations and Penalties

In addition to civil and criminal penalties that may apply under applicable laws to individual University personnel and to the University, violation of export control laws and regulations may subject the violator to remedial or disciplinary action by the University and/or The University of Texas System for misconduct, including termination or dismissal, in accordance with applicable University of Texas System and University policies and procedures.