Misconduct in Research and Scholarship Policy

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SECTION I. PURPOSE

This policy is intended to ensure integrity in the conduct of research and scholarship, as defined in this policy. It establishes expectations that apply to University of St. Thomas community members in conducting research and scholarship and responding to allegations of misconduct in research and scholarship; defines what constitutes misconduct in research and scholarship; and ensures the thorough, timely, objective and fair evaluation, investigation and resolution of such allegations.

This policy is intended to comply with the requirements set forth in the Code of Federal Regulations, including but not limited to 42 C.F.R. Part 93 (regarding research funded by the U.S. Department of Health and Human Services (HHS)/U.S. Public Health Service (PHS)) and 45 C.F.R. Part 689 (regarding research funded by the National Science Foundation (NSF)).

SECTION II. SCOPE AND APPLICABILITY

The expectations set forth in this policy apply to all St. Thomas employees (faculty, staff and student workers), students, contractors, volunteers and visitors.

This policy governs all research and scholarship, regardless of discipline, that is:

- conducted by any St. Thomas employee (faculty, staff or student workers) within the scope of their university employment, including internally- or externally-funded research;
- conducted on behalf of or pursuant to an agreement with St. Thomas by any St. Thomas contractors or volunteers;
- conducted by students if the research or scholarship is not required for either a credit-bearing course or for a degree or certificate program; or
- conducted with the use of St. Thomas resources.

Student research and scholarship that is required for either a credit-bearing course or a degree or certificate program will be governed by the relevant undergraduate or graduate student academic integrity policy.

SECTION III. DEFINITIONS

When used in this policy, the following terms have the following meanings:

a. ***Academic unit*** means a St. Thomas school, college or academic department or program, center or institute.

b. ***Accepted practices of the relevant research community*** means those practices established by commonly accepted professional codes or norms within the overarching community of researchers and institutions.

c. ***Administrator*** means a school or college dean or associate dean, a department chair, the director or associate director of an academic program, center or institute, or the administrative leader of any other division or unit.

d. ***Allegation*** means a disclosure of possible misconduct, through any means of communication (whether written or oral and regardless of medium), brought directly to the attention of a St. Thomas administrator.

e. ***Complainant*** means an individual who in good faith makes an allegation.

f. ***Conflict of interest*** means a situation in which an individual has dual loyalties to St. Thomas and another party, or where the personal interests of an individual or their related parties could influence or be perceived to influence the individual's actions or decisions. For purposes of this definition, "personal interests" include personal, professional and financial interests. "Related parties" means the individual's spouse, children, parents, grandparents, siblings and all of their spouses, and any organizations in which the individual serves as a board member, officer or key employee or has a significant financial interest. A conflict of interest does not require actual impropriety to occur, as potential conflicts and perceptions of conflicts also can have adverse consequences.

g. ***Credit-bearing course*** means a course that (i) is offered by St. Thomas for academic credit, (ii) is required as an accompaniment to a course offered by St. Thomas for academic credit (e.g., a laboratory section), or (iii) bears no academic credit but is required or counted by St. Thomas as part of a credit-bearing program, in each case regardless of the mode of course delivery.

h. ***Evidence*** means anything offered or obtained during a misconduct proceeding that tends to prove or disprove the existence of an alleged fact. ***Evidence*** includes documents, whether in hard copy or electronic form, information, tangible items, and testimony.

i. ***Fabrication*** means making up data or results and recording or reporting them.

j. ***Faculty*** means an individual employed at St. Thomas as tenured, tenure-track, non-tenure-track, clinical, visiting, limited term or adjunct faculty, and former St. Thomas faculty who have been granted emeritus/a faculty status at St. Thomas.

k. ***Falsification*** means 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.

l. ***Good faith*** as applied to a complainant or witness means having a reasonable belief in the truth of one's allegation or testimony based on the information known to the complainant or witness at the time. An allegation or testimony is not in good faith if made with knowledge of or reckless disregard for information that would negate the allegation or testimony. ***Good faith*** as applied to an administrator or investigation committee member means impartially carrying out the duties assigned under this policy for the purpose of helping St. Thomas meet its responsibilities under this policy. An administrator or investigation committee member does not act in good faith if their acts or omissions under this policy are dishonest or influenced by conflicts of interest.

m. ***Intentionally*** means acting with the intent or hope to cause a certain result or that a certain result will follow.

n. ***Knowingly*** means acting with awareness that one's conduct will result in certain consequences or is practically certain to cause a specific result.

o. ***Misconduct*** means the prohibited conduct set forth in Section IV.B of this policy.

p. ***Misconduct proceeding*** means any actions taken under this policy in response to

allegations, including but not limited to preliminary assessments, inquiries, investigations, interviews and hearings.

q. ***Misconduct Proceedings Officer (MPO)*** means the individual who is designated pursuant to Section V.B. of this policy to be responsible for conducting the misconduct proceedings as described in Section VI of this policy.

r. ***Notice / Notify*** means a written or electronic communication served in person, sent by mail, courier, facsimile, email or an equivalent method of delivery to the last known street address, facsimile number or email address of the addressee.

s. ***Plagiarism*** means the appropriation of another's ideas, processes, results or words without giving appropriate credit. ***Plagiarism*** also includes the unattributed verbatim, or nearly verbatim, copying of sentences and paragraphs from another's work that materially misleads the reader regarding the contributions of the author. It does not include the limited use of identical, or nearly identical, phrases that describe a commonly used methodology. ***Plagiarism*** does not include self-plagiarism, or authorship or credit disputes, including disputes among former collaborators who participated jointly in the development or conduct of a research project.

t. ***Preponderance of the evidence*** means proof by evidence that, compared with evidence opposing it, leads to the conclusion that a violation of this policy is more likely than not to have occurred.

u. ***Recklessly*** means acting with awareness of a substantial risk that a certain result will occur as a result of one's action. The risk must be substantial enough that the action represents a gross deviation from what a reasonable person would do.

v. ***Record*** means the documentation of data or results that embody the facts resulting from scientific or other scholarly inquiry, in both physical and electronic form, including but not limited to research proposals, raw data, processed data, clinical research records, laboratory records, study records, laboratory notebooks, progress reports, manuscripts, abstracts, theses, records of oral presentations, online content, lab meeting reports, journal articles, other publications, and any other documents and materials provided to a designated administrator by a respondent in the course of a misconduct proceeding.

w. ***Research and scholarship*** means all forms of basic, applied and demonstration research, and all forms of scholarship and creative work in all fields and disciplines of scholarly inquiry, regardless of the presence or absence of external funding or sponsorship of the specific research or scholarship project. Fields of scholarly inquiry include, without limitation, the natural and social sciences, engineering, mathematics, the humanities, arts, and professional fields such as business, counseling, education, law, ministry and social work.

x. ***Respondent*** means the individual against whom an allegation is directed or who otherwise is the subject of a misconduct proceeding.

y. ***Retaliation*** means an adverse action taken against a complainant, witness or investigation committee member by St. Thomas or one of its community members in response to:

   (i) a good faith allegation;

   (ii) good faith cooperation with a misconduct proceeding; or

   (iii) expressing opposition to or support for a finding of misconduct.

z. ***Sponsor*** means any external entity (including but not limited to for-profit and nonprofit companies, foundations, industry associations, nongovernmental organizations, and departments and agencies of the U.S. federal and state governments) that supports the research or scholarship upon which an allegation of misconduct is based.

aa. ***St. Thomas community standards*** means the St. Thomas mission, convictions, policies and applicable law.

SECTION IV. CONDUCT EXPECTATIONS

A. Standards of Conduct

The academic freedom accorded scholars and researchers carries with it certain responsibilities, including the obligations of academic honesty, integrity and responsible self-discipline. St. Thomas also expects its community members who undertake research and scholarship to uphold the St. Thomas community standards and maintain the highest standards of ethics and conduct in their profession and scholarly discipline. These are necessary conditions for the proper functioning of the university. Failure to uphold these obligations tarnishes the cause of truth, damages collegial relationships, and may cause irreparable harm to the relationships between scholars and students and between St. Thomas and the public.

St. Thomas values interdisciplinary inquiry carried out by teams. Team-based research imposes a special responsibility upon individual participants, because any individual misconduct may affect team members as well as the individual. Each participant on a team conducting research or scholarship has a responsibility to ensure that the research or scholarship is honestly gathered and presented and that appropriate credit is given for each individual's contributions. However, principal investigators, project directors and authors always have primary and final responsibility for the integrity of research, scholarship and collaborative work performed under their supervision, whether by faculty or non-faculty. This responsibility includes detecting irregular practices in research and scholarship procedures, recording and retaining research data according to scientifically or other professionally acceptable criteria, handling and reporting data and results, introducing remedial measures in cases of innocent mistakes, and investigating and eliminating willful fraud.

Individuals who directly supervise others' research and scholarship (e.g., a principal investigator) are expected to make periodic and reasonable inquiries concerning the integrity of the activities conducted under their supervision.

B. Prohibited Conduct

St. Thomas prohibits misconduct in all aspects of research and scholarship. Allegations of misconduct will be handled in accordance with this policy.

Misconduct means any form of dishonest or unethical conduct in the proposing or performing of research or scholarship, or in reporting the results of research or scholarship, which may include but is not limited to:

1. fabrication, falsification, plagiarism and similar actions that misrepresent an individual's work as original when it is not, misrepresent data or sources contained in an individual's work, misrepresent who performed the work, misrepresent that an individual has done a level of work that the individual has not completed, misrepresent research progress, or knowingly publishing material that otherwise will mislead readers;
2. willful fraud in the use of resources (whether tangible or intangible, human or financial) or stealing, tampering with or destroying others' property (such as research papers, supplies, equipment or products of research or scholarship);
3. taking or releasing the ideas or data of others when they have been shared with the legitimate expectation of confidentiality for a particular purpose (for example, stealing ideas from grant proposals, award applications or manuscripts when one is a reviewer);

4. engaging in research or scholarship in which the individual has an actual or perceived conflict of interest that has not been appropriately disclosed under the university's conflict of interest policy and other applicable policies;
5. covering up or otherwise failing to promptly report observed, suspected or apparent misconduct by others that is required by this policy to be reported; and
6. directing or encouraging others to engage in any of the above conduct.

Misconduct ***does not include*** honest errors or honest differences of opinion in the interpretation or assessment of information inherent in the scientific and creative process and normally probed or resolved through further research and scholarship. Misconduct also does not include intentional, artistic and creative uses of fabrication, falsification or similar tactics as an element intentionally incorporated into an original work of artistic or creative expression (such as a work of art, fiction or poetry), to the extent the incorporation of such elements is consistent with the prevailing ethical standards of the applicable discipline.

There are research and scholarship practices that generally do not rise to the level of misconduct under this policy, but which also are inappropriate and prohibited. Such practices will be addressed at the academic unit level, under the supervision of the applicable college or school dean in consultation with the vice provost for academic affairs ("Vice Provost"). These practices may include, but are not limited to:

1. maintaining inadequate records or having the opportunity to maintain records but failing to do so, especially for results that are published or relied on by others;
2. conferring or requesting authorship on the basis of a specialized service or contribution that is not significantly related to the reported research or scholarship;
3. refusing to give peers reasonable access to unique materials or data that support published papers;
4. releasing preliminary results, especially in public media, without providing sufficient data to allow peers to judge the validity of the results or to reproduce the experiments; and
5. neglecting to supervise others properly in work for which one is responsible as the principal investigator, project director or author.

SECTION V. REPORTING ALLEGED MISCONDUCT

A. Duty to Report

St. Thomas faculty and staff have an obligation to report promptly any observed, suspected or apparent misconduct by any individual covered by this policy. Students and other individuals covered by this policy are strongly urged to report such misconduct, but they are not obligated to do so. All reports must be made in good faith.

The duty of faculty and staff to report allegations is not dependent on the timing of the alleged misconduct. If a faculty or staff member becomes aware of suspected or apparent misconduct that occurred in the past, they have a duty to report such conduct promptly upon becoming aware of it.

B. How to Report

Individuals are encouraged to report alleged misconduct in writing so as to ensure a clear understanding of the issues raised. Reports must be made in one of the following ways:

- to the President's Cabinet member with the most direct responsibility for the respondent(s);

- to the director of the Institutional Review Board if the allegations involve human subjects research;
- through the university's EthicsPoint reporting system; or
- otherwise in accordance with the university's Whistleblower and Non-Retaliation Policy.

Allegations reported to St. Thomas through any of these methods will be addressed in accordance with this policy, regardless of whether the allegation was made by an individual covered by this policy or by a third party.

All allegations received by St. Thomas through one of the four designated reporting methods must be reported promptly to the Vice Provost or, if the Vice Provost is perceived to have a conflict of interest, to the executive vice president and provost ("Provost"). If both individuals are perceived to have a conflict of interest, the report may be submitted to the president or the Office of General Counsel. If the Office of General Counsel receives a report, it will consult with the president regarding the appropriate party to receive the report and will provide the report to that party, which may be the president or another party designated by the president.

The party ultimately receiving the report of misconduct will designate the Misconduct Proceedings Officer (hereinafter referred to as the "MPO") who is responsible for conducting the misconduct proceedings as described in Section VI of this policy. This individual may be the Vice Provost, a designee of the Vice Provost, or, if the Vice Provost is conflicted, another designated individual.

Allegations of misconduct that involve human subjects research also will be reported promptly to the director of the Institutional Review Board, if the allegation was not initially made to the director. The director will facilitate the completion of any documentation required for compliance with regulations and policies applicable to human subjects research.

The EthicsPoint reporting system permits anonymous reporting. Anonymous reports will not fulfill the duty of faculty and staff to report. Other reporters may use the anonymous reporting option. However, anonymous reporting may hinder the university's ability to investigate and respond to the allegation. Anonymous reports often contain insufficient information to follow up with the parties involved, resulting in insufficient evidence to complete a thorough assessment and investigation.

SECTION VI. MISCONDUCT PROCEEDINGS

Promptly following receipt of an allegation, the MPO will initiate the misconduct proceedings described in this Section. All misconduct proceedings will be conducted in accordance with the general requirements set forth in Section VI.A, in addition to any specific requirements that apply at particular stages of the proceeding.

A. General Requirements

1. Protections

Administrators with responsibility for overseeing and conducting misconduct proceedings are expected to take:

a. reasonable precautions to ensure that individuals responsible for carrying out or participating in any part of a misconduct proceeding do not have unresolved conflicts of interest with the complainant, respondent or witnesses;

b. all reasonable and practical steps to protect the positions and reputations of good faith complainants, witnesses and investigation committee members and

protect them from retaliation by respondents and other members of the St. Thomas community; and

c. all reasonable and practical steps to protect the rights and reputations of all parties involved in a misconduct proceeding throughout the conduct of the proceeding.

2. Confidentiality

Disclosure of any information relating to a misconduct proceeding, including allegations, findings, the identity of respondents, complainants and witnesses, and other details of the misconduct proceedings, will be limited to those who need to know the information for purposes of assuring a thorough, competent, objective and fair misconduct proceeding, and as required or allowed by law. Those who need to know may include institutional review boards, journals, editors, publishers, co-authors, and collaborating institutions. The limitation on disclosure of the identity of respondents, complainants, and witnesses no longer applies once St. Thomas has made a final determination and finding of research misconduct. Except as may otherwise be prescribed by applicable law, confidentiality must be maintained for any records or evidence from which research subjects might be identified.

3. Cooperation

Individuals covered by this policy are expected to cooperate with the MPO and other administrators with respect to misconduct proceedings. All individuals reporting allegations or requested or required to participate in a misconduct proceeding have an obligation to do so cooperatively and in good faith and to promptly provide relevant and truthful information, records and evidence to internal authorities with responsibility for conducting or supporting misconduct proceedings.

4. Termination of Employment, Resignation, Death or Incapacity of Respondent Prior to Completing the Inquiry or Investigation

The termination of a respondent's employment, by resignation or otherwise, or a respondent's death or incapacity before or after an allegation has been reported will not preclude or terminate the misconduct proceedings. If a respondent, without admitting to the misconduct, elects to resign after an allegation has been reported but prior to or during the initiation of a preliminary assessment, inquiry or investigation, the inquiry or investigation will proceed. If a respondent refuses to participate in the misconduct proceedings after the termination of employment, or is incapable of participating due to death or incapacity, the parties with responsibility for making determinations will use their best efforts to reach a conclusion concerning the allegations, noting in their respective reports the respondent's refusal or inability to cooperate and the effect of this noncooperation or nonparticipation on the evidentiary review.

In addition, if, prior to conclusion of the inquiry or investigation, a respondent dies or the respondent's employment terminates and the respondent cannot be located after a good faith effort, the university's failure to provide the respondent with any notice contemplated by this policy will not be held against St. Thomas or prevent St. Thomas from proceeding with any other action under this policy that otherwise would require notice to the respondent.

5. Admission of Misconduct

If a respondent admits to an allegation at any stage, the MPO will be informed immediately. Depending upon the procedural stage at which the admission occurs, the respondent will be expected to work with the MPO or the investigation committee to develop a written statement that is fully responsive to the allegation, including language attesting that the admission is a true admission, freely given, and not a false one derived from circumstances that may have pressured the

respondent into making a false admission. The statement must specify the falsification, fabrication, and/or plagiarism that occurred and which research records were affected. The statement must meet all elements required for a finding of research misconduct under Section VI.E.3 of this policy. The statement must be signed by the respondent and witnessed by the MPO or the investigation committee, depending on the stage of the misconduct proceedings. Such admissions will alter some of the specific procedures described in sections of this policy. However, the overall scope and intent of the procedural stages will be retained.

6. Interim Administrative Actions

St. Thomas may take interim administrative actions pending final resolution of a misconduct proceeding to protect the health and safety of research subjects and the interests of students, employees or others, and to preserve federal or other sponsored funds. Such actions may range from slight restrictions to reassignment of the activities of the respondent(s). In extreme circumstances, a respondent may be suspended temporarily. Interim administrative actions will be taken with full awareness of how they might affect the respondent and ongoing research and scholarship projects of St. Thomas.

7. Notification and Reporting Requirements to Sponsor

Many sponsors have regulations and contractual conditions regarding the inquiry and investigation of allegations of misconduct involving activities they are considering for funding or already have funded. These regulations contain requirements to report to these sponsors under certain conditions, at specified stages in the process, and within certain time periods. The MPO is responsible for assuring compliance with all such regulations and contractual obligations, which are not detailed in this policy as they vary by sponsor.

8. Apparent Violations of Criminal Law

If, at any point after reviewing an allegation, the MPO or an investigation committee member believes there is a reasonable indication of possible criminal violations by the respondent, the individual must promptly notify the Office of General Counsel, who will work with the individual to ensure notices are made to law enforcement officials, sponsors and other individuals, as appropriate.

9. Multiple Institutions

If during the course of these proceedings the MPO discovers the allegation involves research or scholarship conducted at multiple institutions, the MPO will confer with appropriate officials at the other institution(s) and determine whether to proceed with a joint research misconduct proceeding, in which case one institution shall be designated as the lead institution. However, St. Thomas may choose not to proceed with a joint proceeding and, as respecting persons covered by this policy, may investigate and address the matter on its own. In a joint research misconduct proceeding, the lead institution should obtain research records and other evidence pertinent to the proceeding, including witness testimony, from the other relevant institution(s). By mutual agreement, the joint research misconduct proceeding may include committee members from the institutions involved. The determination of whether further inquiry and/or investigation is warranted, whether research misconduct occurred, and the institutional actions to be taken may be made by the institutions jointly or tasked to the lead institution.

10. Multiple Respondents

If additional respondents are identified during an inquiry or investigation, St. Thomas is not required to conduct a separate inquiry for each new respondent. However, each new respondent

will be provided notice of and an opportunity to respond to the allegations. While an investigation into multiple respondents can convene under the same process, separate investigation reports and research misconduct determinations are required for each respondent.

B. Preliminary Assessment

Upon receipt of any allegation, and without contacting the respondent(s), the MPO will review the allegation, determine whether this policy applies, and determine whether the allegation warrants an inquiry. If the allegation involves human subjects research, the MPO will conduct this review in consultation with the Institutional Review Board. An inquiry is warranted if the allegation, if taken as true:

1. falls within the definition of misconduct under this policy;
2. is sufficiently credible and specific so that potential evidence of misconduct may be identified; and
3. occurred within six years prior to the date it is reported to St. Thomas or, if it occurred more than six years prior to the date of the report, (a) the alleged misconduct has been continued or renewed, including (without limitation) through the respondent's or another individual's use of, republication of, or citation to the portion(s) of the research or scholarship involved in the allegation, for the potential benefit of the respondent; (b) the misconduct would possibly have a substantial adverse effect on the health or safety of the public; or (c) St. Thomas received the allegation before the effective date of this policy.

If the MPO (in consultation with the Institutional Review Board for allegations involving human subjects research) determines that an inquiry is not warranted, the MPO will promptly document that determination and notify the complainant of the decision, and the misconduct proceeding will end. If the MPO determines an inquiry is warranted, the MPO will undertake the notice and custody obligations in Section VI.C and initiate an inquiry under Section VI.D.

C. Initial Notice to Respondent(s) and Custody of Records

If an inquiry will be initiated, the MPO must take all reasonable and practical steps to obtain custody of all records and other evidence, which may include copies of the data or other evidence so long as those copies are substantially equivalent in evidentiary value, needed to conduct the misconduct proceeding and to make a good faith effort to notify each respondent that a misconduct proceeding will be conducted, provided that only allegations specific to a particular respondent are to be included in the notice to that respondent. In addition to obtaining custody of the records and other evidence, the MPO must inventory and sequester them in a secure manner, except that where the records or other evidence encompass scientific instruments shared by a number of users, the MPO may determine, based on the specific facts and circumstances, that custody may be limited to copies of the data or other evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. Whenever possible, **obtaining, inventorying and sequestering all records and other evidence must be completed on or before the date any respondent is notified and whenever additional items become known or relevant to the inquiry or investigation.**

If during the course of the misconduct proceeding additional respondents, records or evidence is identified, the MPO must promptly obtain, inventory and sequester the additional records and evidence (whenever practicable, without providing advance notice to the new respondents) and promptly make good faith efforts to notify the new respondents. If additional allegations are raised, the respondent(s) must be notified in writing of the additional allegations raised against them.

D. Inquiry

Promptly after obtaining, inventorying and sequestering the necessary records and evidence, the MPO will initiate the inquiry, which must be conducted in accordance with this Section.

1. Timing

The inquiry must be concluded within 90 calendar days following its initiation unless circumstances clearly warrant a longer period. This timing includes both preparation of any inquiry report required by Section VI.D.3 and review of the inquiry report by the respondent(s) as contemplated by Section VI.D.3. The MPO will document and retain the initiation and completion date of the inquiry as part of the records of the misconduct proceeding. If the inquiry takes longer than 90 days to complete, the inquiry record must include documentation of the reasons for exceeding the 90-day period.

2. Conduct and Determination

The inquiry is an initial review of the records and evidence by the MPO to determine whether a formal investigation is warranted. If the allegation involves human subjects research, the MPO will conduct this inquiry in consultation with the Institutional Review Board. An inquiry does not require a full review of all the records and evidence related to the allegation and does not include a determination of whether misconduct occurred. It is intended to separate serious allegations deserving further, formal investigation from trivial, frivolous, unjustified or clearly mistaken allegations.

The inquiry will conclude with a determination by the MPO (in consultation with the Institutional Review Board for allegations involving human subjects research) as to whether an investigation is warranted. An investigation is warranted if the MPO determines there is:

a. a reasonable basis for concluding that the allegation falls within the definition of misconduct under this policy; and

b. preliminary information-gathering and preliminary factfinding from the inquiry indicate that the allegation may have substance.

If the MPO (in consultation with the Institutional Review Board for allegations involving human subjects research) determines that an investigation is not warranted, the MPO will document the reason(s) and promptly notify each respondent and complainant of the decision. Sufficiently detailed documentation of the reason(s) must be kept in a secure manner for at least seven years after the termination of the inquiry and may be required to be provided to sponsors under applicable regulations or contracts.

If the MPO determines an investigation is warranted, the MPO will prepare an inquiry report and notify each respondent and complainant in accordance with Section VI.D.3 of this policy.

3. Inquiry Report and Notifications

Within 30 calendar days of deciding that an investigation is warranted, the MPO must prepare a written inquiry report and provide a copy to each respondent, who will be given at least seven calendar days to review the report, attach any comments and return them to the MPO. In the MPO's discretion, the MPO also may provide relevant portions of the report to the complainant(s) for review and comment during the same timeframe as is afforded to the respondent(s). If there are multiple complainants, notice will be provided to all, to the extent possible. Upon receipt of any comments, the MPO has discretion to revise the inquiry report to incorporate any comments submitted. If the MPO revises the inquiry report in response to such comments, the MPO will note this in the final report. The revised report need not be resubmitted to the initial recipients for further

comment.

The inquiry report must include the following information:

a. the name and position of the respondent(s) and the complainant(s);
b. the source of funding, if any, for the research or scholarship, including any sponsors, grant numbers, grant applications, contracts and publications listing funding support;
c. any applicable regulations that govern the inquiry;
d. a description of the allegations;
e. an inventory of sequestered research records and other evidence, and a description of how sequestration was conducted;
f. transcripts of any transcribed interviews;
g. timeline and procedural history;
h. any scientific or forensic analyses conducted;
i. any new allegations determined during the inquiry;
j. the basis for recommending that the allegations warrant an investigation;
k. the basis on which any allegations do not merit an investigation;
l. any comments on the report submitted by the respondent(s) and/or complainant(s) (which must be attached to the report); and
m. any institutional actions implemented, including communications with journals or funding agencies.

Additionally, if there is potential evidence of honest error or difference of opinion, the inquiry report will note this.

Preparation of the inquiry report, the review and comment period, and any subsequent revision of the inquiry report are considered part of the inquiry for purposes of calculating the timing of completion of the inquiry.

Promptly after finalizing the report, and before the investigation begins, the MPO will provide a copy of the final inquiry report to each respondent. If the MPO did not already share its determination and relevant portions of the inquiry report with the complainant, the MPO may, but is not required to, notify the complainant whether the inquiry found that an investigation is warranted.

E. Investigation

Within 30 calendar days after deciding that an investigation is warranted, the MPO must convene an investigation committee and initiate the investigation. An investigation is the formal development and examination of a factual record leading to a decision either to not make a finding of misconduct or to make a recommendation for a finding of misconduct in accordance with this policy.

1. Appointment of Investigation Committee

The investigation committee will comprise three individuals. For allegations including human subjects research where there is potential for disclosure of confidential human subjects data, the three individuals will all be tenured faculty or staff members serving on the Institutional Review Board. For other allegations, the individuals will all be tenured faculty or professional staff, but will

not include any members from the President's Office, the Office of Academic Affairs or the Office of General Counsel. If possible, at least two of the three individuals will be regular St. Thomas employees (either faculty or staff) with reasonable knowledge relevant to the area of research or scholarship in which the misconduct is alleged to have occurred. The respondent(s) may select one regular St. Thomas employee (either faculty or staff) with experience in research and/or scholarship to serve on the three-member committee. (If there are multiple respondents, the selection will be made collectively.) The other two committee members will include the designated committee chair and will be selected by the MPO. Administrators, individuals with responsibility for the research or scholarship under investigation, and any individuals with a conflict of interest will not be eligible to serve as a member of the investigation committee.

Once the committee membership is finalized, the MPO will notify the respondent that the committee is established and provide the names of all committee members.

2. Timing of Investigation

The investigation committee must complete all aspects of the investigation within 180 calendar days of its initial meeting, including conducting the investigation, preparing a report of findings, providing the draft report to the respondent as further described in Section VI.E.5, and providing the final report to the MPO along with any recommendation for sanctions if misconduct is found.

If, at any time during the investigation process, the investigation committee determines in good faith that the investigation cannot likely be completed within the 180-day period, the committee must immediately notify the MPO with documentation of the reasons for exceeding the 180-day period. Applicable regulations or contracts may require the MPO to seek an extension from a sponsor before extending the time available to the investigation committee. If not, the MPO has authority to grant reasonable extensions and will retain written documentation of the duration of and reasons for the extension.

3. Requirements for Finding Misconduct; Burden of Proof

To demonstrate misconduct under this policy, the investigation committee must determine, based on a preponderance of the evidence, that:

a. there was a significant departure from accepted practices of the relevant research or scholarly community; and

b. such departure was committed intentionally, knowingly or recklessly.

St. Thomas has the burden of proof for making a finding of misconduct. The destruction of or a respondent's refusal to provide existing records is evidence of the respondent's misconduct where St. Thomas establishes by a preponderance of the evidence that the respondent intentionally or knowingly had records and destroyed them after being informed of the research misconduct violations or maintained the records and refused to produce them in a timely manner upon request and that the respondent's conduct constitutes a significant departure from accepted practices of the relevant research or scholarship community.

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 St. Thomas has carried the burden of proof imposed by this policy, the investigation committee will give due consideration to admissible, credible evidence of honest error, or difference of opinion, presented by the respondent.

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 sanctions following a misconduct proceeding.

4. Conduct of the Investigation

In conducting the investigation, the investigation committee must:

a. use diligent efforts to ensure the investigation is thorough and sufficiently documented and includes examination of all available records and evidence relevant to reaching a decision on the merits of the allegations;

b. take reasonable steps to ensure an impartial and unbiased investigation to the maximum extent practicable;

c. interview each respondent, complainant and any other available individual who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent, and record and transcribe each interview, number any exhibits shown to the interviewee and reference those numbers doing the interview, make available the transcript to the interviewee for correction, and include any transcript with any corrections and numbered exhibits in the investigation record. A respondent may not be present during witness interviews but must be provided a transcript of the interview;

d. ensure each respondent has:

(i) access to any evidence that supports or refutes each allegation and that is reasonably available and in possession of the MPO or the investigation committee;

(ii) a fair opportunity to present evidence and witnesses;

(iii) reasonable time to prepare for all interviews with the investigation committee;

(iv) assistance of a support person who may be an advisor, legal counsel or another individual at the respondent's own expense who may accompany and confer with the respondent in all interviews but may not address the committee or any witness or otherwise participate in or disrupt the proceedings, provided that to avoid any conflicts of interest, the support person may not be a St. Thomas administrator, and if the support person is providing legal counsel, the support person may not be a St. Thomas employee; and

(v) prompt notice of any new and different allegation(s) of misconduct discovered during the investigation that were not addressed during the preliminary assessment or inquiry;

e. diligently pursue all significant issues and leads discovered that the investigation committee determines relevant to the investigation, including any evidence of additional instances of possible misconduct, and continue the investigation to completion; and

f. make findings, by majority vote, as to whether misconduct did or did not occur. Findings do not need to be unanimous.

5. Investigation Report

Unless an extension has been obtained under Section VI.E.2, within 120 calendar days of its initial meeting, the investigation committee must prepare and submit a written investigation report to the MPO, along with a recommendation for sanctions if required under Section VI.E.7. At least 45

calendar days prior to the submission of the final report to the MPO, the investigation committee must provide each respondent with an opportunity to review and comment on the draft report and, concurrently, a copy of or supervised access to the evidence on which the report is based. In its discretion, the committee also may provide the draft report or relevant portions of the draft to the complainant for review and comment. The respondent(s) and complainant must submit any comments to the investigation committee within 30 calendar days of the date on which the report was received by the respondent(s) and complainant, respectively. Upon receipt of any comments, the investigation committee has discretion to revise the investigation report to incorporate any comments submitted. If the investigation committee revises the investigation report in response to such comments, the investigation committee will note this in the final report. The revised report need not be resubmitted to the initial recipients for further comment.

The final investigation report must include the following information:

a. The name and position of each respondent;
b. The source of funding, if any, for the research or scholarship, including any sponsors, grant numbers, grant applications, contracts and publications listing funding support;
c. Any applicable regulations that govern the investigation;
d. A description of the nature of the allegations and any new allegations determined during the investigation;
e. A description of the specific allegations for consideration in the investigation;
f. Composition of investigation committee, including names, positions, and subject matter expertise;
g. Inventory of sequestered research records and other evidence, except records the institution did not consider or rely on; and a description of how any sequestration was conducted during the investigation. This inventory must include manuscripts and funding proposals that were considered or relied on during the investigation;
h. Transcripts of all interviews conducted;
i. Identification of the specific published papers, manuscripts submitted but not accepted for publication (including online publication), PHS funding applications, progress reports, presentations, posters, or other research records that allegedly contained the falsified, fabricated, or plagiarized material;
j. Any scientific or forensic analyses conducted;
k. The institutional policies and procedures under which the investigation was conducted;
l. An overview of important dates involved in the allegation and in the misconduct proceeding, including, but not limited to, when the misconduct is alleged to have occurred, when the initial report of misconduct was made, when the preliminary assessment was made, when the inquiry was initiated and concluded, and when the investigation was initiated and concluded;
m. An identification and summary of the records and evidence reviewed, including identification of any records and evidence taken into custody but not reviewed;
n. For each separate allegation of misconduct identified during the investigation, a finding as to whether misconduct did or did not occur, and for each finding:
    (i) the identity of the individual(s) responsible for the misconduct;
    (ii) whether the misconduct was falsification, fabrication, plagiarism or a different type of

misconduct and whether it was done intentionally, knowingly or recklessly;

(iii) a summary of the facts and analysis supporting the conclusion and considering the merits of any reasonable explanation by the respondent(s);

(iv) the specific funding support, if any, supporting the respondent's research or scholarship related to or concurrent with the misconduct;

(v) any current or subsequent sponsors of the respondent(s)'s research and scholarship, and any known applications or proposals for sponsor support that the respondent has pending;

(vi) whether any publications require correction or retraction;

o. If the investigation committee does not recommend a finding of research misconduct for an allegation, the investigation report must provide a detailed rationale; and

p. Identification and consideration of any comments made by the respondent(s) and/or complainant(s) on the draft investigation report.

6. Resolution if No Misconduct Is Found

If the investigation committee finds that the allegations are not substantiated by the investigation, St. Thomas will make all reasonable and practical efforts to restore the position and reputation of the respondent(s). Reasonable and practical efforts must also be made to protect the position and reputation of complainants who made allegations in good faith and witnesses and committee members who cooperated in the misconduct proceedings in good faith, and prevent any potential or actual retaliation or discrimination against them. In this context, if the respondent(s), investigation committee members, MPO, or the individual who initially received the report (the Vice Provost, Provost, president or president's designee) alleges in good faith that an initial allegation of misconduct was malicious, reckless or intentionally dishonest, the initial allegation will be investigated by the appropriate authority and regarded with the same seriousness as misconduct in research and scholarship itself.

7. Sanctions if Misconduct Is Found

If the investigation committee determines that misconduct occurred and disciplinary action is warranted, it will make such recommendations in writing to the MPO in a separate document from the investigation report, which will be submitted to the MPO at the same time as the investigation report. In addition to disciplinary action, which may include sanctions up to and including dismissal of an employee respondent, termination of a contractor respondent's contract or expulsion of a student respondent, recommendations may include:

a. requiring the respondent(s), or requesting an appropriate authority, to withdraw from publication all pending abstracts and papers emanating from the misconduct; and

b. notifying editors of journals or other publications to which the research or scholarship was submitted or in which it was published.

The MPO will promptly submit the investigation report to the Provost, along with the MPO's recommendation whether to impose the sanctions recommended by the investigation committee, different sanctions or no sanctions. If, after reviewing the investigation committee's report and the MPO's recommendation, the Provost determines that disciplinary action, but not dismissal or expulsion is warranted, the Provost will take actions in light of the investigation committee's findings and the MPO's recommendation as the Provost considers justifiable and notify the respondent(s) of such decisions or actions. If the Provost determines that dismissal or expulsion is warranted, the Provost will make that recommendation to the president, who will determine whether to initiate formal dismissal or expulsion proceedings through established procedures. The

Provost may alternatively request that the investigation committee conduct further investigation before a sanctions decision is reached. If the Provost previously was determined to be conflicted, the report will be submitted to the president instead of the Provost, and the president will make the determinations that otherwise would be made by the Provost.

8. Notifications

Within 10 calendar days after receiving the final report from the investigation committee, the MPO will provide each respondent with the final report, attaching any comments submitted by the respondent(s) and complainant, along with notice of any sanctions or other action taken by the Provost against the respondent. If the MPO did not already share its determination and relevant portions of the inquiry report with the complainant, the MPO may, but is not required to, notify the complainant when the investigation is complete.

St. Thomas may at any time share factual information about allegations and findings of misconduct proceedings as it determines necessary or appropriate consistent with applicable law, while maintaining protections for respondents who were found not to have engaged in misconduct, including but not limited to providing notice to sponsors, scholarly journals or other parties that St. Thomas determines may be affected by or have a legitimate interest in such information, provided the respondent is given a copy of the information released.

SECTION VII. RECORDKEEPING

The Office of the Provost will maintain documentation of all allegations and any subsequent misconduct proceeding, findings, recommendations, official correspondence and disciplinary actions in a secure manner for at least seven years after completion of the misconduct proceeding.

SECTION VIII. GRIEVANCE PROCESS FOR FACULTY RESPONDENTS PURSUANT TO THE FACULTY HANDBOOK

After a final decision has been made by St. Thomas regarding disciplinary action, faculty respondents may file a grievance if permitted under the terms of the Faculty Handbook, in accordance with the terms of the Faculty Handbook. The outcome of any faculty grievance does not affect the ability of St. Thomas to share factual information as set forth in Section VI.E.8.

SECTION IX. NO RETALIATION

St. Thomas, and federal and state law, prohibit retaliation against individuals for reporting allegations or cooperating in misconduct proceedings in good faith. No faculty, staff or student will be reprimanded or retaliated against for making allegations in good faith or for good faith participation or cooperation in misconduct proceedings. Retaliatory actions include, but are not limited to, threats or actual violence against the individual or that individual's property, adverse employment or educational consequences, ridicule, intimidation, bullying or ostracism.

St. Thomas will take steps to prevent retaliation and will take strong responsive action if retaliation occurs. Any conduct by an individual covered by this policy that constitutes retaliation or reprisal is subject to disciplinary action, up to and including dismissal, expulsion and prohibition from campus or other St. Thomas activities. Concerns regarding retaliation will be addressed in accordance with applicable St. Thomas policies and procedures addressing retaliation.

St. Thomas may impose sanctions if it determines that an individual knowingly initiated a false allegation, knowingly provided false information, or intentionally misled a St. Thomas representative during a misconduct proceeding or in connection with an allegation.