The Senate Committee on Academic Freedom and Responsibility (SCAFR) recently reviewed the proposed revisions to the Procedures Regarding Misconduct in Research *that had been drafted by a faculty committee chaired by David Manning and reviewed by the Senate Committee on the Faculty (*Almanac *May 7, 2002). SCAFR approved the document with one change. Upon SCAFR's recommendation, the Senate Executive Committee approved the following version at its meeting on April 2, 2003. These procedures become effective immediately and supersede those published in* Almanac *September 9, 1997.*

— Robert Barchi, Provost —Neal Nathanson, Vice Provost for Research

Procedures Regarding Misconduct in Research

Introduction

The University relies on its faculty to establish and maintain the highest standards of ethical practice in academic work including research. Misconduct in research is forbidden and represents a serious breach of both the rules of the University and the customs of scholarly communities.

Although instances of research misconduct are relatively rare, the University has a responsibility to detect and investigate possible misconduct and to resolve cases of possible misconduct fairly and expeditiously.

The primary responsibility for maintaining integrity in research must rest with those who perform it. In light of this responsibility, the University expects each faculty member:

a. To maintain and further the highest standards of ethical practice in research. Especially important are integrity in recording and reporting results, care in execution of research procedures, and fairness in recognition of the work of others.

b. To be responsible for the integrity of the research carried out under his or her supervision, no matter who actually performs the work or under what circumstances.

c. To accept that a claim of authorship implies a definable major contribution to the work and an acceptance of responsibility for the methods and findings of the work.

d. To keep thorough and verifiable records of research and to insure that exact copies of these records are preserved by the unit in which the work is done.

e. To report suspected research misconduct to the appropriate dean.

The University must also establish certain standards to assure a healthy environment for research. These standards include procedures for dealing with alleged research misconduct.

These procedures are applicable to members of the University of Pennsylvania standing faculty, standing faculty-clinician-educator, associated faculty, academic support staff, and emeritus faculty when acting as such.

Research Misconduct Defined

Research misconduct is defined as fabrication, falsification, plagiarism, or other serious deviation from accepted practices in proposing, performing, or reviewing research, or in reporting research results.

- Fabrication is making up data or results and recording or reporting them.
- Falsification is 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.
- Plagiarism is the appropriation of another person's ideas, processes, or results, or works without giving appropriate credit.
- Serious deviation from accepted practices includes but is not limited to stealing, destroying, or damaging the research property of others with the intent to alter the research record; and directing or encouraging others to engage in fabrication, falsification or plagiarism. As defined here, it is limited to activity related to the proposing, performing, or reviewing of research, or in the reporting of research results and does not include misconduct that occurs in the research setting but that does not affect the integrity of the research record, such as misallocation of funds, sexual harassment, and discrimination, which are covered by other University policies.

The research record is the record of data or results that embody the facts resulting from scientific inquiry, and includes, but is not limited to, research proposals, laboratory records, both physical and electronic, progress reports, abstracts, theses, oral presentations, internal reports, and journal articles.

Some forms of misconduct, such as failure to adhere to requirements for the protection of human subjects or to ensure the welfare of laboratory animals, are governed by specific federal regulations and are subject to the oversight of established University committees. However, violations involving failure to meet these requirements may also be covered under this policy or possibly by other University policies when so determined by the responsible committees or institutional officials.

Research misconduct does not include honest error or differences of opinion.

Findings of Research Misconduct

A finding of research misconduct requires that:

- There be a significant departure from accepted practices of the relevant research community; and
- The misconduct be committed intentionally, or knowingly, or recklessly; and
- The allegation be proven by a preponderance of evidence.

Procedures for Handling Alleged Research Misconduct

The following procedures recognize the need to protect the rights and reputations of all individuals, including those who are alleged to have engaged in misconduct and those who report the alleged misconduct. These procedures also recognize that ethical standards are not only an individual obligation but represent a responsibility to the institution, to scientific communities, and to the public.

All committees and parties to an inquiry or investigation have the obligation to maintain maximum confidentiality throughout the proceedings. Exceptions to this obligation are those noted for the Dean and Provost in Section 4. All persons concerned have the obligation to cooperate and furnish all requested information. If any party refuses to do so, the committees of inquiry and investigation will note this in their reports to the Dean.

Charges of misconduct must be resolved expeditiously in a fair and objective manner, protecting the rights of the person or persons against whom a complaint has been filed (the respondent), the person or persons filing the complaint (the complainant), and persons serving as informants or witnesses.

The making of knowingly false or reckless accusations regarding research misconduct violates acceptable norms of behavior for members of the University community and may result in formal charges being brought against the person making such accusations under University procedures (e.g. Procedure Governing Sanctions Taken Against Members of the Faculty).

1. Preliminary Inquiry

1.1 Before filing a complaint of research misconduct, an individual is encouraged to review the matter with his or her Department Chair, Dean, and/or University Ombudsman, to seek advice from individuals he or she trusts, and through such consultation to determine whether the matter should be pursued. Inquiry into research misconduct should be initiated by written complaint filed with the Dean of the School in which the respondent has his or her primary appointment. The complainant can be any individual, whether or not affiliated with the University.To the extent possible, the complaint should be detailed, specific and accompanied by appropriate documentation. Upon receipt of the complaint, the Dean will notify the Provost. The Dean and the Provost have the responsibility to protect the position and reputation of the complainant and any informants or other witnesses, and to protect these individuals from retaliation, so long as their allegations were made in good faith. The Provost will notify the Chair of the Faculty Senate that a complaint has been filed and the nature of the complaint, but will not identify either the complainant, any informant, or the respondent, in order to preserve maximum confidentiality at this very preliminary stage of inquiry.

1.2 Upon receipt of a properly documented complaint, the Dean will inform the respondent of the nature of the charges, making every effort to avoid identifying the complainant or any informant. The Dean will outline to the respondent, and to the complainant, his or her rights and obligations by reference to this and other relevant University procedures. The Dean will take steps to secure all documents, data and other materials that appear to be relevant to the allegations. The respondent is obligated to cooperate fully in all such efforts. The materials will be copied and the copies provided to the respondent. The originals will be retained as specified in Section 4.12. Every effort will be made to minimize disruption to the respondent's research during this and subsequent phases of the inquiry subject to Sections 4.4-4.7. The Dean will also appoint a preliminary inquiry committee consisting of at least three individuals, none of whom is a member of the same department as, or a collaborator with, or has a conflict of interest with the complainant or respondent. The members of the committee should be unbiased and have appropriate backgrounds to investigate the issues being raised. They may but need not be members of the faculty of the University. Upon appointment of the preliminary inquiry committee, the Dean will notify the complainant and the respondent of the names of the committee members. The Dean will also make every effort to protect the identities of both complainant and respondent with respect to the larger community. The appointment of the preliminary inquiry committee will ordinarily be completed within two weeks of the receipt of a properly documented complaint.

1.3 The preliminary inquiry committee will gather information and determine whether the allegation warrants a formal investigation. The committee will then submit a written report of its findings to the Dean with a copy to the Provost, the complainant and the respondent. The report should state what evidence was reviewed, summarize relevant interviews and include the committee's recommendation, which will be decided by simple majority of the committee; any dissenting opinion will be noted. This report will ordinarily be submitted within 30 calendar days of receipt of the written complaint by the Dean. The respondent will be given the opportunity to make a written reply to the report of the preliminary inquiry committee within 15 calendar days following submission of the report to the Dean. Such reply will be incorporated by the Dean as an appendix to the report. The entire inquiry process should be completed within 45 calendar days of the receipt of a properly documented complaint by the Dean unless circumstances clearly warrant a delay as determined by the Dean in consultation with the Provost. In such cases the record of inquiry will detail reasons for the delay.

1.4 If the report of the preliminary inquiry committee finds that a formal investigation is not warranted, the Dean may (i) drop the matter, (ii) not initiate a formal investigation, but take such other action as the circumstances warrant, or (iii), in extraordinary circumstances, nonetheless initiate a formal investigation. The decision of the Dean will be reviewed by the Provost, who will either concur or require that it be changed. The decision and its review should be completed within 25 calendar days of the receipt by the Dean of the report (10 days following a response, if any). The Dean will inform the concerned parties of the decision. In the event that a formal investigation is not initiated, the Dean and the Provost will, as appropriate, use diligent efforts to restore the reputation of the respondent and to protect the position and reputation of the complainant unless the complaint was found not to be made in good faith. The Provost will notify the Chair of the Faculty Senate that the case has been dropped.

1.5 If no formal investigation of the respondent is conducted, sufficient documentation will be maintained for at least 3 years following the inquiry to permit a later assessment of the reasons that a formal investigation was not deemed warranted (see Section 4.12).

1.6 If the report of the preliminary inquiry committee finds that a formal investigation is warranted, or the Dean or Provost decides the matter should be pursued through a formal investigation, the Dean will initiate a formal investigation as provided in Section 2. The Provost will inform both the Senate Consultation Subcommittee and the appropriate government agency or source funding the research, in writing, that a formal investigation has been initiated and will identify the respondent to the agency or source.

2. Formal Investigation

2.1 To initiate a formal investigation, the Dean will appoint a formal investigation committee of not less than three individuals, none of whom has been a member of the preliminary inquiry committee but whose appointment will be subject to the same provisions governing appointment of the preliminary inquiry committee as described in Section 1.2. A majority of the formal investigation committee must be members of the standing faculty. One of the appointed members will be designated Chair of the committee by the Dean. The formal investigation will be initiated by the committee as soon as possible and usually within 30 calendar days after the report of the preliminary inquiry committee has been received by the Dean. The formal investigation will be divided into four phases: i) investigation and development of an initial factual record, ii) draft report of the findings, iii) hearing, if requested, and iv) final report of the findings. The Office of the General Counsel will provide guidance in procedures appropriate to the case and may have a representative present at any or all meetings of the committee. The representative will not participate directly in the proceedings except when and as requested to do so by the committee.

2.2 Investigation and development of an initial factual record. The formal investigation committee will be provided with copies of the complaint, the report of the preliminary inquiry committee and any other materials acquired by the preliminary inquiry committee during the course of its inquiry. The formal investigation committee will undertake a thorough examination of the allegations, including, without limitation, a review of all relevant research data and proposals, publications, correspondence, and records of communication in any form. Experts within or outside the University may be consulted. The formal investigation committee will also investigate any possible acts of research misconduct by the respondent that come to light during its investigation, and will include them in its findings. Whenever possible, interviews will be conducted with the complainant and respondent, as well as with others having

information regarding the allegations. Tapes will be made of all interviews and saved for reference. Summaries of the interviews will be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file. When appearing before the committee the respondent and the complainant may each be accompanied by an adviser, who may be a lawyer but who may not participate directly in the proceedings except when and as requested to do so by the committee.The committee will not conduct formal hearings at this point. Except in unusual cases, the respondent and the complainant will not appear before the committee at the same time.

2.3 Draft report of the findings. Following development of the initial factual record, the formal investigation committee will prepare and provide a written draft report of its proposed findings to the respondent, to the complainant, and the Office of General Counsel. The report will describe the allegations investigated, how and from whom information was obtained, the proposed findings and their basis, and will include texts or summaries of the interviews conducted by the committee.

2.4 Hearing. If the respondent contests any material finding of fact made by the committee in the draft report, he or she may request a hearing before the committee. The request must be made to the committee in writing within 15 calendar days following receipt of the draft report. Any such request must specify findings the respondent asserts are erroneous, the basis for the claimed error, identify each witness the respondent may desire to examine at the hearing, and specify the purpose for calling such witness and the nature of the testimony expected. Upon receipt of such a request, the committee will promptly schedule a hearing. The committee will use reasonable efforts to secure the attendance at the hearing of any witness requested by the respondent who may have information relevant to the disputed finding of fact. The committee may also request the attendance of witnesses in addition to those requested by the respondent, in which case the respondent will be provided with a list of these witnesses at the time the request is made. At the hearing, the respondent and committee will each have an opportunity to examine each witness. The respondent may be accompanied by an advisor, who may be a lawyer but may not participate directly in the proceedings except when and as requested by the committee. The committee will have full authority to determine all matters concerning the conduct of the hearing, including the number of witnesses, the amount of time allocated for questioning each witness, and the duration of the hearing. The committee may require that it pose questions on behalf of the respondent.

2.5 Final report of the findings. Following completion of the hearing, if any, the committee will submit a written final report to the Dean with copies to the Provost, the complainant, and the respondent. This report should describe the policies and procedures under which the investigation was conducted, how and from whom information was obtained, the allegations investigated, the findings and the basis of the findings, and should include texts or summaries of the interviews and hearing, if any, conducted by the committee.The committee will state that it finds the charge(s) made by the complainant or otherwise emerging during the course of its proceedings to be unsubstantiated or substantiated by a preponderance of evidence. For each charge considered, the vote of a majority of the committee will constitute the decision of the committee. The vote will be recorded. If the vote is not unanimous, a statement of any dissenting opinion will be included in the report. If the committee finds that a violation of University policy in addition to or other than research misconduct might have been committed, a description of the possible violation will be included for consideration by the Dean under other procedures. The final report will ordinarily be submitted within 90 days of the appointment of the formal investigation committee. The respondent and complainant will each be permitted to make a written reply to the Dean with a copy to the Provost within 15 calendar days of submission of the report. The Dean will ask the committee to respond in writing to any replies from the respondent or complainant within 7 calendar days. All such responses and replies will be incorporated as appendices to the report of the formal investigation committee.

3. Adjudication

3.1 The Dean will consider the final report and replies. If the Dean in consultation with the Provost determines that there has been procedural error that is likely to have affected the committee's findings, or that any material finding is unsupported by a preponderance of evidence, the Dean will remand the matter to the committee for further proceedings. Upon acceptance of the report by the Dean, the Provost will report the outcome of the investigation to the Chair of the Faculty Senate and the appropriate government agency or source funding the research. The Provost will also provide a copy of the report to the appropriate government agency or source funding the research, as required. The entire formal investigation process should be completed within 120 calendar days of its initiation, unless circumstances clearly warrant a delay as determined by the Dean in consultation with the Provost. In such cases the reasons for a delay will be documented.

3.2 If the final report of the formal investigation committee finds the charges to be unsubstantiated, the Misconduct in Research procedure will be terminated and the concerned parties will be informed. The Dean and the Provost have the responsibility to take an active role to repair any damage done to the reputation of the respondent or the complainant (provided the complainant acted in good faith), and to take appropriate action should they determine that the accusation was knowingly or recklessly false.

3.3 If the report of the formal investigation committee finds the charges against a faculty member to be substantiated, the Dean in consultation with the Provost will take whatever actions are appropriate to the level of intent of the misconduct, the consequences of the behavior, and other aggravating and mitigating factors in accordance with University procedures and which consider the previous record of the respondent. The Dean in consultation with the Provost will determine whether there is substantial reason to believe that just cause exists for suspension or termination, and will take other steps as may be appropriate under the University's Procedure Governing Sanctions Taken Against Members of the Faculty. In any subsequent proceeding commenced under such procedure, the final report of the formal investigation and all replies and responses thereto will form part of the record and be accorded appropriate weight.

4. Other Actions and Procedures

4.1 The Dean may designate the Associate or Vice Dean if a member of the Standing Faculty to represent him or her in the administration of any case of misconduct. The Provost may similarly designate the Deputy Provost, Associate Provost for Faculty Affairs, or Vice Provost for Research if a member of the Standing Faculty to represent him or her.

4.2 If the respondent feels that any action of the Dean, preliminary inquiry committee, or formal investigation committee violates procedures set forth in this document or otherwise introduces an unfair bias into the proceedings, he or she may submit to the Dean, preliminary inquiry committee, or formal investigation committee, respectively, in writing the nature of the action and the reasons why the action may influence either the material findings of fact or the conduct of the proceedings. The complaint to the Dean or respective committee must be made promptly. If the Dean or respective committee finds that the complaint does not merit action, or if the respondent is not satisfied with the nature of any corrective action,

the respondent may appeal to the Provost. The Provost will decide the matter and will have the authority to take corrective action. Proceedings will not be delayed during consideration of the respondent's claim by the Provost unless the Provost determines that a delay is essential for fair consideration.

4.3 Any final action taken by the Dean under Section 3.3, and any administrative action taken under Sections 4.4, 4.5, 4.6, or 4.7 may be reviewed under other established University grievance and appeal procedures to the extent such review is within the stated jurisdiction of such procedures. All other actions taken, proceedings conducted and reports prepared under this procedure are not subject to review or consideration under the Faculty Grievance Procedure.

4.4 The Dean in consultation with the Provost will, during the course of the inquiry or formal investigation, take administrative action, as appropriate to protect the welfare of animal or human subjects.

4.5 At any time during the preliminary inquiry or formal investigation, the Dean and Provost will immediately notify the relevant funding agency(ies) if public health or safety is at risk; if agency resources or interests are threatened; if research activities should be suspended; if there is reasonable indication of possible violations of civil or criminal law; if Federal action is required to protect the interests of those involved in the investigation; if the University believes the preliminary inquiry or formal investigation may be made public prematurely so that appropriate steps can be taken to safeguard evidence and protect the rights of those involved; or if the research community or public should be informed.

4.6 Subject to Section 4.5, the Dean and Provost will, during the course of the inquiry and formal investigation, take administrative action, as appropriate to protect funds for sponsored research and ensure the purpose of any external financial assistance.

4.7 The Dean in consultation with the Provost will, during the course of the inquiry and formal investigation, take administrative action, as appropriate to ensure an acceptable working environment for individuals under the direction of, or working with the respondent. The Provost and Dean will also notify individuals, programs, or institutions of allegations or developments that would necessitate immediate action in order to prevent the likelihood of substantial harm.

4.8 The Chairs of the preliminary inquiry and formal investigation committees will inform the Dean of any issues relevant to Sections 4.4, 4.5, 4.6, and 4.7 arising during the course of the proceedings.

4.9 Inadvertent failure to tape any interview under Section 2.2 will not be considered a procedural defect requiring correction.

4.10 If the final report of the formal investigation committee finds charges have been substantiated, the Provost will take appropriate steps to correct any misrepresentations resulting from the misconduct in question upon acceptance of the report by the Dean. Collaborators, and other affected individuals, organizations, or institutions will be informed. If misrepresented results have been submitted for publication, already published, or otherwise disseminated into the public domain, appropriate journals and other sponsors will be notified.

4.11 If the Dean is the complainant or respondent or in any other way has a conflict of interest or the appearance of a conflict of interest, he or she is obligated to remove him or herself from the case during the preliminary inquiry and formal investigation and to transfer to the Provost responsibility for carrying out these procedures. In carrying out the latter the Provost will assume the role specified for the Dean and the President that specified for the Provost in sections 1, 2, 3, and 4.

4.12 Complete records of all relevant documentation on cases treated under the provisions of this policy will be preserved by the offices of the Dean and the Provost in a manner consistent with the Protocols for the University Archives and Record Center. In cases adjudicated under Section 3, records will be preserved for a minimum of ten years following completion of all proceedings. Records of cases which are dropped under the provisions of sections 1.4 or 3.1 will be preserved for at least three years following the initial inquiry, but not as part of the personnel record of the respondent.

4.13 The University may act under these procedures irrespective of possible civil or criminal claims arising out of the same or other events. The Dean, with the concurrence of the Provost, after consulting with the general counsel, will determine whether the University will, in fact, proceed against a respondent who also faces related charges in a civil or criminal tribunal. If the University defers proceedings, it may subsequently proceed irrespective of the time provisions set forth in these procedures.