

SECTION 10 BOARD POLICIES AND PROCEDURES

10.1 INTELLECTUAL PROPERTY POLICY

I. STATEMENT OF AUTHORITY AND PURPOSE

This policy is promulgated by the Board of Trustees pursuant to the authority conferred upon it by §23-41-104(1), C.R.S. (2008) in order to set forth a policy concerning the ownership and control of intellectual property developed by Mines employees and students. This Policy shall supersede any previously promulgated Mines policy that is in conflict herewith.

II. OBJECTIVE

Mines recognizes that inventions and discoveries, and the patents, copyrights, know-how and trade secrets accruing from these, may be the natural outgrowth of the academic activities and research of its faculty members, employees, and students. Mines deems it desirable to secure control and ownership of this intellectual property to fulfill its role and mission and to benefit the public through its technology transfer efforts.

III. DEFINITIONS

For the purposes of this policy, the following definitions shall apply:

A. Intellectual Property Owned by Mines

This phrase shall refer to inventions, innovations, discoveries, methods, apparatus, know-how, designs, models, distinct shapes, works of authorship (including computer software), any strains, varieties, or cultures of an organism, or any portion, modification, improvements, translation, or extension of these items which are made, devised, designed, conceived, formulated, developed, produced, invented, or improved upon as part of the Inventor's employment relationship with Mines, or which bear upon or arise out of the Inventor's activities for Mines or a contracting third party, or which are developed pursuant to the Inventor's duties and obligations to Mines as an employee (including student employees), or developed where Mines has the right to control the manner and means of production of an invention, innovation, discovery, method, or apparatus. It also includes any marks used in connection with these. In this Policy, the term "Intellectual Property" shall refer to Intellectual Property that must be disclosed to Mines by employees and that is deemed to be owned by Mines.

Works that are specifically commissioned through Mines by a third-party sponsor or by Mines will be owned by Mines, not the Inventor.

B. Intellectual Property Owned by the Employee-Inventor

This phrase shall refer to intellectual property for which Mines will not assert ownership, including works of art that are made or valued primarily for artistic purposes rather than practical function (e.g., art objects, literary works, musical compositions), academic instruction materials (e.g., course materials), or traditional scholarly works (such as a scientific article published in a refereed journal, a monograph, a book, a thesis, or a similar contribution to a collective work) that are authored by an employee within the scope of employment, *unless* such works are produced as part of a sponsored program (e.g., as a contracted-for research deliverable) or are works that are specifically commissioned by Mines or another third-party

sponsor.

While Mines shall not assert ownership over academic instruction materials, Mines will retain a non-exclusive, irrevocable, perpetual, royalty-free license to use, display, copy, distribute and prepare derivative works of those materials created by employees in the course and scope of their employment at Mines. Such materials may include video, audio, webpages, texts, graphics, simulations or other instructional media.

Mines will not assert ownership over intellectual property created, conceived or first reduced to practice by students solely for the purpose of satisfying degree requirements, unless (a) the student is performing work under a third-party contract (sponsored research); (b) the student is a co-creator with a Mines employee; (c) assignment of intellectual property is a course requirement; (d) Mines facilities, equipment, or resources are used in a manner that is above and beyond what is normally and customarily provided to students; (e) the student assigns ownership rights to Mines; or (f) the student creates the intellectual property in the course and scope of their work and duties as either a Mines employee or a research or graduate fellow.

In this policy, the term "Intellectual Property" shall *not* refer to intellectual property for which Mines does not intend to assert ownership.

C. Inventor

This term shall refer to any individual who makes, alone or jointly with others, a significant contribution to the creation of an invention, innovation, discovery, method, or apparatus. Ultimately, if a patent application is filed, and subsequently granted, the allowed claims will dictate who is a named inventor listed on a patent.

D. Use of Mines Facilities, Equipment or Resources

This phrase shall refer to any use of Mines laboratories, equipment, computers, personnel, or library facilities that is more than incidental, or any use thereof that is essential to the creation of Intellectual Property.

E. Mines Research

This phrase shall refer to any research conducted by a Mines employee in fulfillment of his or her employment agreement with Mines and/or research using Mines Facilities, Equipment or Resources.

IV. STATEMENT OF OWNERSHIP PRINCIPLE

Intellectual Property created within the scope of an Inventor's employment, or by anyone utilizing Mines facilities while performing duties required by a third party contract, or made or done with the use of funds supplied or administered by Mines, shall be the sole property of Mines, unless inconsistent with other provisions of this Policy. Acceptance of the terms and conditions of this Policy is and shall be a condition of employment for all Mines faculty, staff and student employees and a condition of engagement for any student in a sponsored research project (e.g., as a contracted-for-research deliverable)..

Mines employees engaged in consulting or external business activities and those charged with approving such activities on behalf of Mines are responsible for ensuring that any related agreements with external entities are not in conflict with this Policy or other commitments involving Mines. Employees should make their obligations to Mines clear to those with whom they make agreements and should provide other parties to the agreement with a current statement of this Policy. The Director of Technology Transfer, upon

request, will provide assistance in this regard. Mines' rights and the individual employee's obligations to Mines that are set forth in this Policy are in no way abrogated or limited by the terms of such agreements with third parties.

V. DISCLOSURE AND RECORDKEEPING

- A. It shall be the responsibility and the duty of an Inventor to promptly notify the Director of Technology Transfer in writing and make full disclosure of any invention, discovery, innovation, method, or apparatus which has potential value as Intellectual Property.
- B. It shall be the responsibility of any person working on a research or creative activity which might give rise to Intellectual Property to keep periodic records of the activity in a bound notebook, with each entry signed and dated by both the Inventor and a witness having specific knowledge of both the activity and the academic discipline involved.
- C. Unless required by the provisions of a third-party contract pursuant to which Intellectual Property is created, no disclosure of Intellectual Property shall be made to any third party without the prior approval of the Director of Technology Transfer, unless a formal release of rights to the Intellectual Property has been executed by an officer of Mines or his or her delegate.

VI. FORMAL PROTECTION OF INTELLECTUAL PROPERTY

- A. In accordance with the procedures hereinafter set forth, Mines shall, after disclosure by an Inventor, determine, in its sole discretion, whether and how to protect any Intellectual Property subject to this Policy.
- B. In the event that an application for patent, copyright or other form of protection is decided upon and pursued, Mines shall have the right to prepare or have prepared, file, and prosecute such application, and the Inventor shall provide full cooperation in such effort. The Inventor shall execute such oaths, powers of attorney, petitions, affidavits, assignments of rights, and such other documents as are necessary to prosecute such application, receive such patents (domestic and foreign), and vest all right, title, and interest therein in Mines, subject to the preemptive rights, if any, of third party contractors or sponsors.

VII. JOINT OWNERSHIP

In the event Intellectual Property is created by a Mines Inventor and an Inventor from an outside entity (e.g., another university, private company, or national laboratory):

- A. Ownership of the Intellectual Property shall be divided between Mines and the outside entity in a proportion identical to the inventive contributions made by the respective parties. Any commercial return from the Intellectual Property shall be divided in the same proportion as ownership; and
- B. Mines shall have control over the filing and prosecution of any patent applications and other forms of intellectual property protection as well as commercial exploitation of the Intellectual Property unless an agreement to the contrary is negotiated by an officer of Mines or his or her delegate.

VIII. DIRECTOR OF TECHNOLOGY TRANSFER

The Director of Technology Transfer shall be designated by the President of Mines and shall have the following duties and responsibilities for the implementation of this Policy under the general direction of the

Vice President for Research and Technology Transfer (VPRTT):

- A. Receive all disclosures from Inventors of Intellectual Property.
- B. Process all disclosures of Intellectual Property as follows:
 - a. Conduct a reasonable investigation of the patentability and commercial potential of the Intellectual Property (with the assistance of legal counsel, if needed);
 - b. Make a decision within six (6) months as to whether to seek patent or copyright protection based on scientific merit, patentability and commercial potential for the Intellectual Property, exploit the Intellectual Property on a commercial basis without legal protection, or waive all of Mines' property rights in the Intellectual Property; and
 - c. Communicate the decision to the Inventor.
- C. Procure appropriate assignments from Inventors.
- D. Administer the filing of patent applications, copyright and other forms of intellectual property protection.
- E. Execute formal waivers of Mines' rights to any items of Intellectual Property that Mines has decided not to pursue.
- F. Administer the commercial use, licensing, or other disposition of all Intellectual Property in which Mines possesses any title or interest.
- G. Monitor previously filed patent applications and the maintenance of issued patents
- H. Review and approve intellectual property clauses and provisions in all agreements, grants, or other documents or instruments that may concern or affect Mines.
- I. Inform the Inventor(s) of the decision not to pursue or to abandon the application, and in such cases provide the Inventor the opportunity to procure the Intellectual Property from Mines by assignment. Such assignment shall be made only if any conflicts that arise as the result of such an assignment can be effectively managed. Such assignment will also include a provision stating that 5% of any revenues received through commercial exploitation of the Intellectual Property by the Inventor(s) shall be returned to Mines.
- J. Perform such other specific duties as may be reasonably implied from the terms and provisions of this Policy.
- K. Manage the enforcement or defense of any Mines Intellectual Property rights.

IX. APPEAL PROCEDURE

- A. In the event that the Inventor disagrees with the decision of the Director of Technology Transfer not to pursue intellectual property protection, the Inventor may, within ten (10) business days of receipt of the decision, appeal to the VPRTT for the appointment of a Patent and Discovery Committee, hereinafter the "P & D Committee." The P & D Committee, which shall be appointed by the VPRTT, shall consist of three (3) or more regular members of the Mines faculty who are

acceptable to both the Inventor and the VPRTT. Should the Inventor fail to appeal to the VPRTT, the decision of the Director of Technology Transfer shall be final.

- B. The duties of the P & D Committee shall consist of the following:
 - a. Conduct an examination of all available information concerning the Intellectual Property;
 - b. Confer with the Inventor and the Director of Technology Transfer;
 - c. Consult with other faculty members, legal counsel or third party contacts in the field of endeavor if necessary; and
 - d. Submit a recommended course of action to the VPRTT.
- C. After considering the recommendation of the P & D Committee, the VPRTT shall issue a decision on the appeal of the Inventor within ten (10) business days after receipt of the recommendation from the P & D Committee.
- D. If the Inventor disagrees with the decision of the VPRTT, the Inventor may appeal to the President for a different course of action. In order to be considered, such an appeal must be submitted to the President within ten (10) business days of the Inventor's receipt of the VPRTT's decision. Should the Inventor fail to appeal to the President, the decision of the VPRTT shall be final.
- E. The President shall issue a final decision on the Inventor's appeal within ten (10) business days of receipt of the appeal.
- F. Any time limitation in this Section IX may be extended by the mutual agreement of the Inventor and Mines.

X. EQUITIES OF PARTICIPATING PARTIES

A. Inventions Owned by Mines

This subsection is applicable to all Intellectual Property Owned by Mines.

- A. The Inventor shall assign all right, title, and interest in and to any such Intellectual Property to Mines.
- B. Net proceeds from the item of Intellectual Property shall be calculated by subtracting the costs of obtaining and maintaining a patent that are not reimbursed by the party(s) licensing the technology, if any, and all other expenses of commercial exploitation from the gross proceeds. These expenses shall first be returned to Mines prior to any further distribution of proceeds from the Intellectual Property.
- C. Of the first thirty thousand dollars (\$30,000) in net proceeds (excluding reimbursement for patent costs), fifteen thousand (\$15,000) will be distributed to the Inventor(s) and fifteen thousand (\$15,000) to the Office of Research and Technology Transfer for investment in speculative patents.
- D. After the initial thirty thousand (\$30,000) of net proceeds, any additional revenue will be divided as follows: 35% to the Inventor(s); 35% to the Mines general fund and 30% to either the Mines academic department that is the home department(s) of the Inventor(s) or the research center

which funded the research, at the discretion of the Inventor(s).

- E. Any revenue that Mines collects that is designated in the agreement as reimbursement for past and/or future patent costs shall not be included in net proceeds, but instead shall be provided to the Office of Research and Technology Transfer for the purpose of funding Mines' patent costs related to the Intellectual Property.
- F. In the case of the death of a Mines Inventor, any revenue that is due the Inventor will be distributed to the Inventor's heirs.

B. Inventions Jointly Owned by Mines and a Third Party

This subsection is applicable to Intellectual Property in which the invention has at least one Inventor employed by Mines and at least one Inventor employed by one or more outside entities.

- A. A statement of ownership rights shall be an integral part of any sponsored research agreement and such agreement must be properly executed prior to the initiation of any sponsored research project.
- B. The rights to any Intellectual Property resulting from any sponsored research shall be distributed pursuant to the terms regarding intellectual property ownership rights contained in the written agreement governing the sponsored research project. Such terms shall be consistent with applicable federal and state laws.
- C. The division of the revenues resulting from licensing or optioning jointly-owned inventions shall be determined in accordance with the inventive contribution of all parties and according to any subsequent commercialization agreement.
- D. Revenue distributed to Mines shall be divided in the manner described in Section X.A of this Policy.

C. Intellectual Property Involving Several Mines Inventors

- A. If an item of Intellectual Property results from the joint efforts of two or more Mines Inventors, they shall attempt to reach an agreement specifying a distribution of the compensation which would normally be paid to a single Inventor. This agreement shall be submitted in writing to the Director of Technology Transfer at the time the Intellectual Property is disclosed.
- B. In the event an agreement cannot be reached between the Inventors, a Royalty Arbitration Committee, consisting of at least three (3) regular members of the Mines faculty, shall be appointed by the VPRTT. The Mines faculty members who will serve on the Committee shall be acceptable to both the Inventors and the VPRTT. The Royalty Arbitration Committee shall make a recommendation to the VPRTT regarding an equitable distribution of royalties within ten (10) business days.
- C. After considering the recommendation of the Royalty Arbitration Committee, the VPRTT will render a decision on the appeal of the Inventors within ten (10) business days after receipt of the recommendation.
- D. If the Inventors disagree with the decision of the VPRTT, the Inventors may appeal to the President for a different course of action. In order to be considered, such an appeal must be submitted to the President within ten (10) business days of the Inventor's receipt of the VPRTT's decision. Should

the Inventors fail to appeal to the President, the decision of the VPRTT shall be final.

- E. The President shall render a final decision on the Inventors' appeal within ten (10) business days of receipt of the appeal.
- F. Any time limitation in this Section C may be extended by the mutual agreement of the Inventors and Mines.

XI. Formation of Start-Up Companies

A. Grant of a License or Option to a Start-Up Company that Involves Mines Employees.

- A. Should a Mines employee desire to form a private company based on an invention owned by Mines, he or she shall inform the Director of Technology Transfer and submit to the Director a request for a license from Mines to utilize the invention.
- B. The Director of Technology Transfer shall determine the suitability of the invention in a start-up company context, taking into consideration any conflict management needs and the legal and practical aspects of utilizing the invention in this context.
- C. If it is determined that a start-up company is a reasonable path forward, both the employee and the start-up company shall develop a conflict management plan that must be approved by the VPRTT and Provost, and implemented before the license agreement between the start-up company and Mines can be signed.

B. Conflict and External Work Disclosure Requirements

- A. Mines employees are required to disclose to Mines and obtain institutional approval prior to engaging in any external commitments that may create a potential or actual conflict of interest situation for the employee or Mines, pursuant to Section 6.3 of the Faculty Handbook. Should an employee's commitment to or involvement in a start-up company create an actual or apparent conflict of interest, such conflict must be disclosed in a timely manner as outlined in Section 6.3.4.
- B. External work, including external employment, paid services, professional consulting and non-remunerative external commitments must be disclosed and approved in advance of the employee's performance of such work pursuant to Section 6.4 of the Faculty Handbook. An employee's commitment to or involvement with an external start-up company (regardless of the employee's ownership interest in the company) must be disclosed and approved pursuant to Sections 6.4.2 and 6.4.3.

C. Conflict Management Plans for Start-Up Companies

- A. Conflict management plans shall be developed in concert with the Office of Research and Technology Transfer and the Provost, with input from Mines' Legal Services Office and Mines' Office of Research Administration, as appropriate. The terms of such plans shall be consistent with applicable state and federal law, and Mines policy.
- B. Conflict management plans shall address, but not be limited to, the following: use of students in company-sponsored research; the role of any students in the company; the disposition of any new intellectual property developed; the anticipated time commitment required of Mines employees in the company's endeavors; and the anticipated use of Mines facilities in support of the company's

work and operations.

- C. Mines may require modifications to conflict management plans should new information arise or situations change. The employee and company will be required to sign and implement the new conflict management plan. If either the employee or company fails to sign and effectively implement the conflict management plan, Mines shall have the right to terminate the license or option agreement. The Director of Technology Transfer, Provost and Legal Services Office will work in concert to develop any modifications to conflict management plans.

Promulgated by the Mines Board of Trustees on December 14, 1990.

Amended by the Mines Board of Trustees on June 5, 2009

Amended by the Mines Board of Trustees on May 5, 2017

10.2 SABBATICAL LEAVE POLICY

I. STATEMENT OF AUTHORITY AND PURPOSE

This policy is promulgated by the Board of Trustees pursuant to the authority conferred upon it by §23-41-104(1), C.R.S., and in accordance with the requirements of §23-5-123, C.R.S., in order to set forth a policy outlining the terms and conditions under which sabbatical leave and paid administrative leave shall be granted to employees at Mines. This policy shall supersede any previously promulgated Mines policy that is in conflict herewith.

II. POLICY STATEMENT

The Board is cognizant of the necessity of maintaining a high caliber of faculty at Mines and the importance of the faculty's contribution in delivering quality education to Mines students. The Board recognizes that faculty sabbaticals play an important role in developing and enhancing faculty expertise and promoting faculty excellence in teaching and research. The Board also recognizes that a faculty sabbatical is a privilege, rather than a right, and should be granted only when it directly benefits Mines and the education of its students. Therefore, the Board shall judiciously grant faculty sabbaticals which are designed to foster teaching and/or research excellence at Mines and thereby result in a benefit to the State of Colorado.

III. POLICY

The following rules and procedures shall henceforth apply to the granting and administration of all sabbaticals at Mines.

- A. Mines may not authorize a sabbatical or an extended period of paid administrative leave for any person holding an administrative position, except that it may, for a reasonable period of time, authorize such employees to take paid administrative leave for disciplinary or investigative reasons. Accordingly, administrative faculty members do not qualify for sabbaticals hereunder. Due to the nature of their positions, research faculty members are likewise ineligible for sabbaticals. The Board is aware that certain administrative positions at Mines are filled by tenured academic faculty members whose status hereunder may be unclear. For the purposes of this policy, an "administrative position" shall be defined to mean any position that does not require at least fifty percent of total effort to be devoted to teaching and academic research.
- B. Mines may not grant a sabbatical for any faculty member more than once every seven years. A tenured faculty member shall first become eligible for a sabbatical after six years of service to Mines (i.e., in the seventh year). To qualify for a sabbatical, the faculty member must have actively served in a full-time, tenured and/or tenure-track position for the six-year period, or an aggregate of twelve semesters. Time spent on unpaid leave is not counted as fulfilling this requirement. In order to be eligible for a subsequent sabbatical, a faculty member must actively serve Mines for six more years following completion of the previous sabbatical, have satisfied the report requirement after the previous sabbatical (described in Paragraph I below), and have meet all other requirements associated with sabbatical leave outlined in this Policy. Time served by a tenured faculty member in an administrative position shall count toward fulfillment of the service requirement. A sabbatical may not be granted to any faculty member serving on a transitional appointment. Mines may delay, for up to one academic year, the taking of a granted sabbatical when it determines that such delay is necessary to avoid significant disruption to Mines operations and the delay will advance the excellence of Mines' delivery of services. When Mines requires a delay in taking a sabbatical, the faculty member will be eligible to seek a grant of sabbatical for the seventh year following the year in which Mines granted the prior sabbatical.
- C. When applying for a sabbatical, a faculty member shall submit to his or her department head as far in advance as possible a detailed sabbatical plan specifying: (1) how the sabbatical activity will

result in the faculty member's professional growth, enhance the reputation of Mines and the educational experience of Mines students and increase the overall level of knowledge in the faculty member's area of expertise; and (2) the goals that the faculty member will achieve while on sabbatical.

- D. The department head shall review the sabbatical plan and forward the plan along with a recommendation to grant or deny the sabbatical request to the Provost, hereinafter the "Provost," within a reasonable time. The Provost shall review these documents and, if the Provost approves the sabbatical request, forward the file to the President with his or her recommendation within a reasonable time. The President shall review these documents and, if the President approves the sabbatical request, forward the file to the Board along with his or her recommendation for final approval.
- E. All sabbaticals taken by Mines faculty shall require Board approval in advance. In considering a sabbatical request, the Board shall consider the quality of the faculty member's proposed activities while on sabbatical; the individuals who will be involved in such activities; the benefits to be received from such activities by the faculty member, Mines and Mines students; the hardship imposed, if any, on the faculty member's colleagues or department if the sabbatical should be granted; and the number of sabbaticals or requests for sabbaticals currently outstanding within the department or area of expertise of the faculty member requesting a sabbatical.
- F. If, due to serious and unforeseen circumstances, a faculty member becomes aware that he or she will be unable to fulfill the approved sabbatical goals during the sabbatical period, the faculty member shall expeditiously consult with his or her department head and the Provost to establish amended sabbatical goals for the remainder of the sabbatical period. If such circumstances involve a personal or family illness, sick leave may be substituted for the sabbatical, and in such case, the faculty member's record will not reflect the granting of sabbatical leave.
- G. Compensation for faculty on sabbatical shall be provided on the following basis: (1) 50% of the academic year base salary plus 100% of the employer-provided benefits for a one-year sabbatical; (2) 100% of the academic year base salary plus 100% of the employer-provided benefits for a one-semester sabbatical.
- H. A faculty member receiving paid sabbatical leave must return to full-time employment at Mines for at least one year after the conclusion of the sabbatical. A faculty member who does not fulfill this condition will be required to repay the full amount of compensation (salary plus employer-provided benefits) received from Mines during the sabbatical period.
- I. Upon completion of a sabbatical, the faculty member shall submit a final sabbatical report to the Board, including a summary of his or her activities while on sabbatical and the benefits derived by the faculty member. Final sabbatical reports need not include specific details of the faculty member's research conducted while on sabbatical. A faculty member may also be requested to make a brief oral presentation of his or her completed sabbatical to the Board.
- J. The Provost shall review the sabbatical plan and the final sabbatical report prior to its submission to the Board, and certify in writing whether or not the faculty member has met the goals stated in the plan.
- K. The Board may not grant a subsequent sabbatical to any faculty member who does not meet the goals or amended goals stated in his or her sabbatical plan.
- L. Every participant in the sabbatical process shall be responsible for ensuring that each sabbatical granted by Mines meets the requirements of §23-5-123, C.R.S., and this policy. Any employee involved in applying for, reviewing or approving a sabbatical at Mines who acts in bad faith or in a willful and wanton manner may be subject to disciplinary sanctions if the above-mentioned requirements are not met.

Promulgated by the Mines Board of Trustees on September 9, 1994.

Amended by the Mines Board of Trustees on December 16, 1994.

Amended by the Mines Board of Trustees on June 10, 1999.

10.3 RESEARCH MISCONDUCT POLICY AND COMPLAINT PROCEDURE

I. STATEMENT OF AUTHORITY AND PURPOSE

This policy is promulgated by the Board of Trustees pursuant to the authority conferred upon it by §23-41-104(1), C.R.S. (2013), to set forth a policy to assure integrity in research and the proper reporting and resolution of complaints alleging research misconduct at Mines. This policy reflects Mines' intent and commitment to foster a research environment that promotes the responsible conduct of research, and requires adherence to the highest standards of integrity in the proposing, conducting and reporting of research. As a recipient of federal research funds, Mines must have institutional policies and procedures in place to handle allegations of research misconduct. The following policy and procedure conform to pertinent federal regulations, including the Public Health Service (PHS) regulations at 42 Code of Federal Regulations, Part 93. While 42 CFR 93 applies to all individuals who may be involved with a project supported by or who have submitted a grant application to the PHS, this policy and procedure apply to all members of Mines' community engaged in research, regardless of the funding source.

II. POLICY

A. General Policy Statement

Misconduct in research represents a breach of the policies of Mines, the standards expected by our research sponsors and entrusted to us by the public, and the expectations of scholarly communities for accuracy, validity and integrity in research. Such misconduct tarnishes the reputations of honest researchers and universities, as well as diminishes public confidence in research results. Any allegation of research misconduct is, therefore, a matter of serious concern to this institution. The highest standards of honesty, integrity, and ethical behavior are expected of all Mines personnel and students involved in research and scholarly activity. Further, maintenance of public trust in these standards is the responsibility of all members of the university community, including faculty, administrators, staff members, and students. Mines will maintain an environment that fosters adherence to the ethical standards set forth in this policy, and provides effective means for addressing deviations from these standards.

All Mines personnel and students involved in research and scholarly activity are subject to this policy, and expected to be aware of and to comply with all of Mines' applicable policies and procedures, as well as the requirements and regulations of outside funding agencies. This policy will specifically address research misconduct, which is defined as fabrication, falsification, plagiarism, or other significant departures from commonly accepted practices within the relevant research community in proposing, performing or reviewing research, or in reporting research results. Mines will properly assess, inquire into and, if necessary, investigate and resolve promptly and fairly all allegations of research misconduct, and comply with research sponsor requirements for reporting allegations of possible research misconduct. When sponsored project funds are involved, Mines will comply within a time frame consistent with applicable regulations and funding agency requirements for reporting cases of possible misconduct.

Any member of Mines' community has an ethical responsibility to act if he or she suspects research misconduct has occurred. Appropriate actions may include discussing concerns with or reporting allegations to one's Department Head or Dean, or Mines' Research Integrity Officer ("RIO"), Vice President for Research and Technology Transfer ("VPRTT") or Provost. Further, members of Mines' community are obligated to cooperate with and provide evidence relevant to an allegation of research

misconduct to appropriate university officials and employees who are directed to conduct an inquiry or investigate such allegations.

Mines' inquiry and investigative process shall include expeditious fact-finding and objective peer review in a setting of appropriate due process that is characterized, at a minimum, by prompt notification to the individuals whose behavior is the subject of a complaint, protection of the rights of all participants, and the imposition of appropriate sanctions for policy violations. In the event it is determined that research misconduct has occurred, appropriate sanctions may include, but are not limited to one or more of the following: oral or written reprimand; removal from the subject project; monitoring of future work; probation; suspension; salary or rank reduction; termination of employment or appointment; or expulsion. Since a charge of misconduct, even if unsubstantiated, may damage an individual's career, any such charge must be resolved in a prudent and circumspect manner, consistent with the duty to thoroughly and fairly resolve each complaint. Retaliation in any form shall not be permitted against an individual who has filed a complaint in good faith or cooperated in the investigation of a complaint hereunder.

B. Scope

The policy and procedure hereunder are intended to satisfy Mines' responsibilities under the Federal Research Misconduct Policy and related regulations, codified at 42 CFR Part 93. This document, however, applies to all individuals engaged in university research and scholarship at Mines, regardless of the funding source. Further, Mines' policy and complaint procedure apply only to research misconduct that is alleged to have occurred within six years of the date Mines or the funding agency received the allegation, subject to the subsequent use, health or safety of the public, and exceptions in 42 CFR § 93.105(b).

III. DEFINITIONS

For the purpose of this policy, the following definitions apply, and terms used have the same meaning as given them in the PHS Policies on Research Misconduct and pertinent federal regulations, codified at 42 CFR Part 93.

A. Research Personnel

Any persons who are employed by, are agents of, or are affiliated by contract, agreement or, in the case of students, enrollment status with Mines, and who are engaged in or have a role in conducting, executing or documenting research and research training activities, regardless of whether the source of support is provided through a grant, contract, cooperative agreement, or internally.

B. Research Misconduct

Research misconduct means fabrication, falsification, plagiarism or other serious deviation from commonly accepted practices within the relevant scientific community for proposing, performing or reviewing research, or in reporting research results. To find research misconduct, a preponderance of the evidence must show that there was a significant departure from accepted practices of the relevant research community and that it was committed intentionally, knowingly or recklessly. Research misconduct does not include honest error or differences in opinion.

C. Fabrication

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

D. Falsification

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.

E. Plagiarism

The appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

F. Significant Departure from Accepted Practices

Significant departure from accepted practices of the relevant research community includes, but is not limited to:

- Abusing confidentiality, including the use of ideas and preliminary data gained from access to privileged information through the opportunity for editorial review of manuscripts submitted to journals, and peer review of proposals being considered for funding by agency panels or internal committees;
- Stealing, destroying or damaging the research property of others with the intent to alter the research record; and
- Directing, encouraging or knowingly allowing others to engage in fabrication, falsification or plagiarism.

G. Complainant

Refers to an individual who submits a written or oral allegation of research misconduct.

H. Respondent

Refers to the individual against whom an allegation of research misconduct is directed or the individual whose actions are the subject of an inquiry or investigation.

I. Research Integrity Officer (RIO)

Refers to the institutional official appointed by the Vice President for Research and Technology Transfer who has primary responsibility for assuring adherence to the procedures defined in this policy and any other Mines procedures adopted to implement this policy.

IV. ROLES AND RESPONSIBILITIES

A. Research Integrity Officer (RIO)

The VPRTT will appoint the RIO, who has primary responsibility for assuring compliance with the procedures of this policy and any other Mines procedures adopted to implement it. With regard to research misconduct proceedings, the RIO's responsibilities generally include the following:

- Consults confidentially with persons uncertain about whether to submit an allegation of research misconduct;
- Receives allegations of research misconduct, and assesses each allegation in accordance with this policy to determine whether it falls within the definition of research misconduct and warrants an inquiry;

- As necessary, takes interim action and notifies the federal Office of Research Integrity ("ORI") of special circumstances, in accordance with this policy;
- Sequesters research data and evidence pertinent to the allegation of research misconduct and maintains it securely in accordance with this policy and applicable law and regulation;
- Provides confidentiality to those involved in the research misconduct proceeding as required by 42 CFR § 93.108, other applicable law, and institutional policy;
- Supports and facilitates the inquiry and investigation processes outlined in this policy;
- Serves as liaison, as appropriate and necessary, among the committee members, the complainant, and the respondent;
- Educates respondents, complainants, witnesses and committee members about Mines' process for research misconduct proceedings;
- Facilitates appointment of the members of the inquiry and investigation committees, ensuring that those committees are properly staffed and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence;
- Keeps the VPRTT and others who need to know apprised of the progress of the review of the allegation of research misconduct;
- Notifies and makes reports to federal oversight and funding agencies, including the ORI as appropriate and as required by 42 CFR Part 93;and
- Ensures that administrative actions taken by the institution and the ORI are enforced.

B. Complainant

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with the inquiry and investigation. Allegations may be reported orally or in writing. The complainant will have the opportunity to submit evidence to the inquiry and investigation committees. The complainant also has the opportunity, if requested by an inquiry committee, to appear before the committee. The complainant will be given the opportunity to be interviewed by and present evidence to the investigation committee. If the RIO or committees determine that the complainant may be able to provide pertinent information or clarification to any portion of the committees' draft reports, these portions may be given to the complainant for comment. The complainant will be informed of the results of the inquiry and investigation.

C. Respondent

The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation. The respondent is entitled to:

- Timely, written notification of the decision to convene an inquiry and the research misconduct allegation;
- An opportunity to comment on the inquiry report and have his/her comments attached to the report;
- Be notified of the outcome of the inquiry, and receive a copy of the inquiry report that includes a copy of the institution's policy and procedures on research misconduct;
- Timely, written notification of the decision to proceed with an investigation, and the allegations to be investigated, including any new allegations not addressed in the inquiry;
- Be interviewed during the investigation, have the opportunity to correct the recording or transcript of the interview, and have the corrected recording or transcript included in the record of the investigation;
- Have interviewed during the investigation any witness who has been reasonably identified by the respondent as having information on relevant aspects of the investigation; and
- Have the opportunity to review and comment on the draft investigation report, and have his/her comments attached to this report.

- If not found to have committed research misconduct, the opportunity to request reasonable and practical assistance from Mines in restoring his or her reputation.

The respondent may admit that research misconduct occurred and that he or she committed the research misconduct. In this event, and upon consultation with the RIO and/or other institutional officials, as appropriate, the VPRTT may terminate the institution's review of an allegation that has been admitted. The institution's acceptance of the admission and any proposed settlement or resolution may be subject to and conditioned upon the approval of federal oversight and funding agencies, as appropriate and required by federal law or policy.

D. Vice President for Research and Technology Transfer (VPRTT)

The VPRTT ensures the ultimate implementation of this policy and related procedures through the RIO, and is responsible for the dissemination of the policy to the members of the community involved in research on behalf of Mines and promoting the responsible conduct of research, consistent with the standards set forth in this policy. As appropriate, the VPRTT consults with the Provost, the RIO, and the relevant Deans and Department Heads when receiving and assessing allegations of research misconduct. The VPRTT ensures that appropriate review procedures are promptly implemented by the RIO when allegations of research misconduct are reported, and the VPRTT receives the final reports of the inquiry and investigation committees, and any written comments provided by the respondent. The VPRTT provides recommendations to the Provost relative to the results of research misconduct investigations. Working with the RIO, the VPRTT shall ensure that the final investigation report, the decision of the Provost, and a description of any pending or completed administrative actions are provided to applicable federal oversight and funding agencies, including the ORI, as required by 42 CFR § 93.315.

E. Provost

As appropriate, the Provost may be involved in consultations with the VPRTT and the relevant Deans and Department Heads in receiving and assessing allegations of research misconduct, and receiving the results of research misconduct investigations. The Provost issues a written decision following receipt of the final investigatory committee report and the VPRTT's recommendation. In the event of a final determination of research misconduct, the Provost may impose appropriate sanctions. The Provost's decision stands as the institution's final decision regarding the research misconduct complaint.

F. Deans and Department Heads

The Deans and Department Heads ensure implementation of this policy and procedure in their respective departments. The Deans and Department Heads report knowledge of allegations of research misconduct to the Provost, VPRTT or RIO. The Deans and Department Heads also help ensure the cooperation of respondents and other individuals in their respective units regarding inquiries and investigations related to allegations of research misconduct, including, but not limited to the sequestration and protection of research records and/or other information and evidence relevant to the allegations.

G. Research Personnel

Research Personnel are responsible for maintaining the highest ethical standards in proposing, performing, and reviewing research, and in reporting research results. Principal investigators are specifically responsible for: (a) assuring that these standards and the requirements of this policy and procedure are communicated to and understood by all who work under their supervision, directly or indirectly; (b) assuring the validity of all information communicated by their research groups; and (c)

assuring appropriate citation of contributions from all deserving individuals both within and outside their research groups. Co-authorship shall reflect actual scientific involvement in and responsibility for work reported.

V. PROCEDURES FOR RESPONDING TO ALLEGATIONS OF RESEARCH MISCONDUCT

A. General Provisions

1. Responsibility to Report Misconduct

All members of Mines' community must report observed, suspected, or apparent research misconduct to their Department Head, Dean, RIO, VPRTT or Provost. If reports of suspected research misconduct are made to the Deans or Department Heads, the Deans and Department Heads must communicate such reports to the RIO, VPRTT or Provost.

If an individual is unsure whether a suspected incident falls within the definition of research misconduct, he or she may meet with or contact the RIO to discuss the suspected research misconduct informally. If the circumstances described by the individual do not meet the definition of research misconduct, the RIO may refer the individual or allegation to other offices or officials with responsibility for resolving the problem, as necessary and appropriate. Mines will protect those individuals who provide information in good faith about questionable conduct against reprisals and retaliation.

2. Cooperation with Research Misconduct Proceedings

Individuals covered by this policy and its implementing procedures must cooperate with the RIO and other institutional officials in the review of allegations and conduct of inquiries and investigations. Employees, students, and university appointees, including respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO or other institutional officials. The RIO or other institutional officials may determine whether it is necessary to sequester original research records and materials relevant to such allegations.

3. Confidentiality

Throughout the process of responding to an allegation of research misconduct, all persons involved, including the RIO, committee members, complainant, respondent, and witnesses, shall exercise great care to preserve the confidentiality of the proceedings to the extent consistent with a thorough, competent, objective, and fair research misconduct proceeding, and as allowed by law. Applicable laws and regulations may require Mines to disclose the identity of respondents and complainants to federal oversight and funding agencies.

4. Protecting Complainants, Witnesses, and Committee Members

The RIO shall monitor the treatment of individuals who bring allegations of research misconduct and those who cooperate with or participate in inquiries and investigations. These individuals are not to be retaliated against in employment or other status at the institution, and the RIO shall review instances of alleged retaliation for appropriate action. Individuals should immediately report any alleged or apparent retaliation against complainants, witnesses or committee members to the RIO, who shall review the matter and immediately make reasonable and practical efforts, as appropriate, to address any potential or actual retaliation, and to protect and restore the position and institutional reputation of the person against whom the retaliation is directed. Consistent with federal regulations and its own business practices, Mines will make reasonable and practical efforts

to protect the positions and reputations of those individuals who make allegations in good faith.

5. Protecting the Respondent

During the research misconduct proceeding, the RIO is responsible for ensuring that respondents receive all the notices and opportunities provided for in 42 CFR Part 93, and a copy of Mines' relevant policy and procedures. As requested and appropriate, the RIO and other institutional officials shall make reasonable and practical efforts to protect or restore the institutional reputations of persons alleged to have engaged in research misconduct, but against whom no finding of research misconduct is made.

6. Legal Counsel

Upon request, attorneys from the Mines Office of Legal Services and/or the Colorado Attorney General's Office shall provide legal advice to the RIO, VPRTT and Provost, as well as procedural advice to the inquiry committee and investigation committee. Neither the university nor the respondent may have legal counsel present at meetings or interviews conducted by the inquiry and investigation committees, except at the express invitation of the committees. Should legal counsel be invited, the invitation will be extended to both parties. When invited, legal counsel may observe, but shall not participate in the proceedings. With the prior approval of the committees, the respondent may be accompanied by a non-attorney colleague at meetings of the committees. When invited, the non-attorney colleague may observe but shall not participate in the proceedings.

7. Requirements for Research Misconduct Findings

A finding of research misconduct requires:

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

8. Interim Administrative Actions and Notifying ORI of Special Circumstances

Throughout the research misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal funds and equipment, or the integrity of the sponsored research process. In the event of such a threat, the RIO will, in consultation with other institutional officials and the ORI, as appropriate, take interim action to protect against any such threat. Interim action may include, but is not limited to any of the following: additional monitoring of the research process and the handling of federal funds and equipment; reassignment of personnel or of the responsibility for the handling of federal funds and equipment; additional review of research data and results; and delaying publication. The RIO shall, at any time during a research misconduct proceeding, notify ORI immediately if there is reason to believe that any of the following conditions exist:

- Public health or safety is at risk;
- Federal agency resources or interests are threatened;
- Research activities should be suspended;
- There is a reasonable indication of possible violations of civil or criminal law;
- Federal action is required to safeguard evidence or protect the interests of those involved in the research misconduct proceeding; or
- The research community or public should be informed.

9. Impact of Termination of Employment

Once the review of a research misconduct allegation has begun, the termination of the respondent's university enrollment, employment or appointment, by resignation or otherwise, will not terminate Mines' research misconduct proceeding. Assessment, inquiry and investigation of the alleged misconduct will continue until a final determination is made, consistent with the procedure herein.

10. Malicious or Bad Faith Complaints

Making unfounded allegations of research misconduct that are motivated by malicious intent or bad faith violates the principles of integrity and ethical behavior that are the foundation of this policy and procedure. Mines may impose appropriate sanctions, including, but not limited to disciplinary action, against a complainant whose allegations are found to have been made in bad faith or with malicious intent, and without reasonable basis in fact and honest belief for making the charges.

B. Preliminary Assessment of Research Misconduct Allegations

1. Reporting Requirements

Research misconduct allegations should be promptly reported to the RIO, regardless of which university personnel initially receive the allegations. Allegations may be communicated orally or in writing. Upon receiving a report of such an allegation, the RIO will consult in confidence with the VPRTT, Provost, Deans, Department Heads or other university personnel, as appropriate and applicable, to determine whether the allegation meets Mines' definition of research misconduct, which is consistent with 42 CFR § 93.103. As part of the initial assessment, the RIO will also determine the appropriate roles and responsibilities of Mines, Mines personnel, and external oversight agencies with respect to evaluating the allegations, and identify individuals, information and data relevant to the allegation. This initial assessment should be completed within 10 days of the RIO's receipt of the allegations, except in circumstances out of the ordinary.

2. Determination to Conduct an Inquiry

If, after assessing the allegation, the RIO determines that the allegation warrants further action and meets the definition of research misconduct as defined in this policy, the RIO will initiate the inquiry process outlined below. As part of the preliminary assessment process, the RIO is not required to interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible and specific.

3. Determination to Dismiss an Allegation

If, after assessing the allegation, the RIO determines that the allegation does not warrant further action and/or does not meet the definition of research misconduct as defined in this policy, the RIO, in concurrence with the VPRTT, will formally dismiss the allegation. In this circumstance, the RIO need not notify the respondent of such allegation or the disposition of same. However, the RIO must notify the complainant in writing that the allegation will not be pursued under Mines' Research Misconduct Policy and Complaint Procedure.

C. Conducting the Inquiry

1. Purpose of the Inquiry

If, based on the preliminary assessment, the RIO determines that an inquiry is appropriate, he or she will immediately initiate the inquiry process. The purpose of the inquiry is to conduct an initial review of the available evidence to determine whether to conduct an investigation. An inquiry does not require a full review of all of the evidence related to the allegation.

2. Time Limitations

The inquiry committee should be convened within 30 days of the determination that an inquiry is appropriate. The inquiry process, including the final report and decision regarding whether an investigation is warranted, should be completed within 60 days of convening the inquiry committee, except in circumstances out of the ordinary.

3. Sequestration of Research Records and Evidence

Once the determination is made to convene an inquiry, the RIO must 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 of 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. Research records and evidence will be sequestered in a manner that causes minimal disruption to non-related research activities.

4. Notifications

Within 10 days of the determination to convene an inquiry, the RIO will notify the respondent of the allegation in writing. The notification to the respondent will include: the specific allegation(s); the rights and responsibilities of the respondent; the role of the inquiry committee; a description of the inquiry process; and a copy of Mines' Research Misconduct Policy and Complaint Procedure.

5. Appointment of Inquiry Committee

The RIO, in consultation with other institutional officials as appropriate, will appoint an inquiry committee as soon after the initiation of the inquiry as is practical. The committee will consist of three full-time, tenured faculty members who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry. At least two of the members must have the appropriate scientific expertise to evaluate the evidence and issues related to the allegation.

6. Responsibilities of Inquiry Committee

The inquiry committee is responsible for determining whether the allegation of research misconduct warrants an investigation based on an initial review of the available evidence. The inquiry committee may also identify issues that would justify broadening the scope of the misconduct proceeding beyond the specifics of the initial allegation. The inquiry committee is not responsible for making a final determination based on the merits of the allegation. The inquiry committee has access to any and all evidence relevant to the allegation of research misconduct, and may interview the complainant, respondent, and/or others, if necessary and appropriate. The committee will

determine whether an investigation is warranted based on its initial review of the available evidence, and summarize its findings and recommendations in a written report to the VPRTT. The inquiry, including the final report and decision regarding whether an investigation is warranted, should be completed within 60 days of the date that the committee is convened, except in circumstances out of the ordinary.

7. Charge to the Inquiry Committee

The RIO will provide the charge to the inquiry committee, which includes:

- Distribution of copies of the Mines Research Misconduct Policy and Complaint Procedure;
- Purpose of the inquiry;
- Definition of research misconduct;
- Specific timeframe for completion of the inquiry;
- Description of the allegations and any related issues identified during the allegation assessment;
- Identification of the respondent; and
- Responsibilities of the inquiry committee, including:
 - Election of committee chair;
 - Initial review of evidence;
 - Interviews of complainant, respondent and others, if deemed necessary and appropriate;
 - Determination that an investigation is warranted if the committee finds: (1) there is a reasonable basis for concluding that the allegation falls within the definition of research misconduct; and (2) the allegation may have substance, based on the committee's review during the inquiry; and
 - Preparation of a final, written report.

The RIO will be available throughout the inquiry to advise the committee as needed.

8. Inquiry Process

The inquiry committee will examine relevant research records and materials, and may interview the complainant, respondent, and key witnesses. Any interviews will be recorded or transcribed and provided to the interviewee for correction. The committee will then evaluate the evidence, including the testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether an investigation is warranted based on the criteria in this policy and 42 CFR § 93.307(d). The scope of the inquiry is not required to and does not normally include a final determination as to whether research misconduct occurred. However, if a legally sufficient admission of research misconduct is made by the respondent, misconduct may be determined at the inquiry stage if all relevant issues are resolved. In that case, the institution shall promptly determine the next steps that should be taken, consulting with external oversight agencies as needed and appropriate.

9. Inquiry Report

At the conclusion of the inquiry, the inquiry committee will prepare a written report of its findings and recommendations. The required elements of this report are:

- Names of committee members;
- Name and title/position of respondent;
- Description of the allegations of research misconduct;

- A summary of the inquiry process utilized;
- Inventory of evidence reviewed;
- If federal funds are involved, identification of grant numbers, applications, contracts and publications that list PHS or other federal support;
- Basis for the committee's recommendations for each allegation; and
- Any comments on the draft report by the respondent.

10. Notification to the Respondent and Opportunity to Comment

The RIO shall notify the respondent as to whether the inquiry found an investigation to be warranted, and include a copy of the draft inquiry report. The respondent has the opportunity to review and provide comment on the draft committee report. Any comments must be provided within 10 days of receipt of the draft report. The inquiry committee will consider the comments of the respondent and may revise the draft report as appropriate. Any written comments provided by the respondent must be attached to the final inquiry committee report. The final inquiry committee report with all attachments must be submitted to the VPRTT and RIO.

11. Institutional Decision

Upon review of the inquiry committee's report and any attachments, the VPRTT will make a written determination as to whether the allegation should be dismissed or an investigation of the allegation is warranted. The VPRTT's decision is final and not subject to appeal. If the decision is to proceed with an investigation, the VPRTT will direct the RIO to initiate the investigation process.

12. Notifications

The VPRTT will notify the respondent in writing regarding the VPRTT's decision on whether to proceed with an investigation, and will include a copy of the final inquiry committee report with all attachments. The VPRTT will direct the RIO to provide written notification to the Provost, affected Deans and Department Heads, and complainant regarding the results of the inquiry and the decision on whether to proceed with an investigation.

13. Disposition of Inquiry Record

If the VPRTT determines that an investigation is not warranted, the RIO shall secure and maintain for seven (7) years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a subsequent assessment by an external oversight agency or other reviewing body of the reasons why an investigation was not conducted. If the VPRTT determines that an investigation is warranted, the RIO will forward all of the information assembled in the course of the inquiry to the investigatory committee for use in its investigation.

D. Conducting the Investigation

1. Purpose and Time Limitations

Once the VPRTT determines that an investigation is warranted, the RIO will be directed to initiate the investigation process. The purpose of the investigation is to determine, based on a preponderance of evidence, whether research misconduct has occurred and, if so, to determine the responsible person(s), and the nature and seriousness of the misconduct. The investigation committee should be convened within 30 days of the determination to initiate an investigation. The investigation process, including the final report and findings for each allegation, should be completed within 120 days of convening the investigation committee, except in circumstances out

of the ordinary.

2. Sequestration of Research Records

The RIO will take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the research misconduct investigation not previously sequestered during the inquiry process.

3. Notifications

Within 10 days of the determination to convene an investigation, the RIO will formally notify the respondent in writing of the institution's decision to convene an investigation, including the following:

- The specific allegation(s);
- The rights and responsibilities of the respondent;
- The role of the investigation committee;
- The investigation process timeline; and
- A copy of Mines' Research Misconduct Policy and Complaint

If required in any research award documentation or pursuant to federal regulation, the RIO will also notify appropriate federal funding and oversight agencies in writing of the decision to proceed with an investigation within 30 days of the determination that an investigation is warranted. This notification will include a copy of the inquiry committee report and other information and references as required by relevant federal regulation or oversight agencies.

4. Appointment of the Investigation Committee

The RIO, in consultation with other institutional officials as appropriate, will appoint an investigation committee as soon after the initiation of the investigation as is practical. The investigation committee will consist of three full-time, tenured faculty members who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the investigation. At least two of the committee members must have the appropriate scientific expertise to evaluate the evidence and issues related to the allegation. When necessary to secure the necessary expertise or to avoid conflicts of interest, the RIO may select committee members from outside the institution.

5. Responsibilities of Investigation Committee

The investigation committee is responsible for conducting a thorough review of all facts and evidence relevant to the investigation to determine, based on a preponderance of evidence, whether research misconduct has occurred and, if so, to determine the responsible person(s) and the nature and seriousness of the misconduct. The investigation committee may also identify, in the course of its duties, issues that would justify broadening the scope of the misconduct investigation beyond the initial allegation. The investigation committee must interview the complainant, respondent, and any other available persons who have been reasonably identified as having information relevant to the investigation. Interviews will be recorded or transcribed and provided to the interviewee for correction. The investigation committee shall make a finding for each allegation, determining whether research misconduct occurred, by whom and to what extent, taking into account that a finding of research misconduct requires: a preponderance of evidence; a significant departure from accepted practices in the relevant scientific community; and that the research misconduct must have been committed intentionally, knowingly or recklessly. The

investigation committee shall summarize its findings and recommendations in a written report to the VPRTT. The investigation, including the final report and findings for each allegation, should be completed within 90 days of convening the investigation committee, except in circumstances out of the ordinary.

6. Charge to the Committee

The RIO will provide the charge to the investigation committee, which includes:

- Distribution of copies of the Mines Research Misconduct Policy and Complaint Procedure;
- Purpose of the investigation;
- Definition of research misconduct and requirements for findings of misconduct;
- Timeframe for completion of the investigation;
- Description of the specific allegation(s) to be investigated and related issues identified during the inquiry process;
- Identification of the respondent(s); and
- Responsibilities of the investigation committee, including:
 - Election of a committee chair;
 - Examination of evidence;
 - Interviews of complainant and respondent;
 - Interviews of other persons as necessary and appropriate;
 - A finding for each allegation, determining whether research misconduct occurred, and if so, identifying the responsible person and determining the nature and seriousness of the research misconduct;
 - Preparation of a final, written report.

The RIO will be available throughout the investigation process to advise the committee as needed.

7. Investigation Process

The investigation committee must use diligent efforts to ensure that the investigation is thorough and sufficiently documented, and includes an examination of all research records and evidence relevant to reaching a decision on the merits of each allegation. The committee will interview each respondent, complainant, and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation, including witnesses identified by the respondent. All interviews will be recorded or transcribed, and the interviewees will be provided the recording or transcript of the interview for correction.

8. The Investigation Report

At the conclusion of the investigation, the investigation committee will prepare a written report that summarizes its findings and recommendations. The required elements of this report are:

- Names of the committee members;
- Name and title/position of the respondent;
- Description of the allegation of research misconduct investigated;
- Description of the investigation process utilized;
- Inventory of the evidence reviewed, including documents and evidence examined and witnesses interviewed;
- A finding as to whether research misconduct occurred for each separate allegation identified during the investigation, and whether it was committed intentionally, knowingly, or recklessly;

- Identification of each finding of research misconduct as plagiarism, falsification, fabrication, or other serious deviations from accepted practices;
- Identification of the individual responsible for each instance of research misconduct;
- Summary of the facts and analysis supporting the conclusion;
- If federal funds are involved, identification of grant numbers, applications, contracts and publications that list PHS or other federal support;
- Identification of any publications that require correction or retraction; and
- Any comments on the draft investigation committee report by the respondent.

9. Respondent's Opportunity for Review and Comment

The RIO will provide the respondent a copy of the draft investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The respondent will be allowed 30 days from the date he or she receives the draft report to submit written comments to the RIO. Any comments will be provided to the investigation committee for consideration. The committee may revise the draft investigation report, as appropriate, and will prepare a final report. Any written comments provided by the respondent must be attached to the final investigation committee report. The investigation committee report with all attachments must be submitted to the VPRTT and RIO.

10. Institutional Decision

Upon review of the investigation committee's final report and attachments, the VPRTT will prepare a written recommendation and forward both the investigation committee report and his or her recommendation to the Provost for review and disposition. The Provost will issue a final, written decision. If the Provost's decision varies from the findings of the investigation committee and/or the VPRTT's recommendation, the Provost will, as part of his or her written determination, explain in detail the basis for the decision. If it is determined that research misconduct has occurred, the Provost will determine the appropriate course of disciplinary action in accordance with relevant Mines policies and procedures, and will confer with the VPRTT and RIO to determine other, appropriate institutional actions in response to the research misconduct. If it is determined that research misconduct has not occurred, the matter is closed with the Provost's decision, which serves as the final decision of the institution. If requested, the institution will make all practical, reasonable and appropriate efforts to restore the reputation of the individual alleged to have engaged in research misconduct, but against whom no findings of research misconduct were found.

11. Notifications

The Provost will notify the respondent in writing of the results of the investigation, including a copy of the final investigation committee report with all attachments. The notification will outline plans for any pending disciplinary action against the respondent. By separate, written communication, the Provost will also notify the complainant of the results of the investigation. The RIO will notify the affected Deans and Department Heads of the results of the investigation. As required, the RIO will also notify any applicable federal oversight and funding agencies in writing of: the investigation committee's findings; whether the institution accepts the investigation committee's findings; whether the institution found misconduct and, if so, who committed the misconduct; and any pending or completed institutional actions or sanctions. This notification will include a copy of the investigation committee's report with all attachments.

12. Record Retention

All documentation and records related to allegations of research misconduct, regardless of whether

they resulted in an inquiry or investigation, will be retained and secured by the RIO for a period of seven (7) years from the date of the receipt of the allegation. All documentation and records related to research misconduct inquiries and investigations will be retained and secured for a period of seven (7) years from the date of the completion of the research misconduct proceedings.

Promulgated by the Mines Board of Trustees on June 13, 1996.

Amended by the Mines Board of Trustees on June 22, 2000, and May 19, 2014.