

19 May 2020

Charles F. Zukoski, Provost
University of Southern California
Los Angeles, California 90089

Dear Provost Zukoski,

Attached is the report of the AY19-20 USC University Research Committee.

The URC is a joint Provost-Senate committee that is tasked, generally, with providing faculty feedback to the Office of Research. This year we were tasked by Randy Hall with 3 concise missions:

1. Modernize the University's policy on research and scholarly misconduct
2. Create the University's first policy to mandate our compliance with laboratory safety rules
3. Generate a uniform procedure or policy for visiting scholars

Randy announced his retirement from his position as vice president of research just days after he tasked me with the chairmanship of the URC. Still, the committee worked with Randy in the fall to accomplish the first two of our missions by February. Both of these policies have been endorsed by the Senate with friendly amendments and are moving successfully through the University's policy adoption process. The misconduct policy is with Mark Todd and moving along, and the safety policy appears to be stuck at the level of Faculty Affairs. Maja Mataric and I are working to clear this log jam.

With her introduction as the interim vice president of research, Maja changed our third objective to the development of a playbook of suggestions for encouraging a cooperative environment in our compliance culture.

The pages that follow include the products of this year's URC.

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- 3-20 URC version of the misconduct policy
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- 47-51 Final USC Laboratory Personnel Protection Policy following senate vetting, approval, and URC endorsement with the senate's changes tracked
- 52-62 Playbook for encouraging a cooperative environment in compliance culture

It has been a pleasure to serve.

Sincerely,



Travis Williams, Chair
University Research Committee

University of Southern California

Los Angeles, California 90089-1661 • Tel: 213 740 5961 • Fax: 213 740 6679 • travisw@usc.edu



15 December 2019

Rebecca Lonergan, President
USC Faculty Senate
699 Exposition Blvd
Los Angeles, CA 90089-0071

Dear Rebecca,

Attached please find a revised version of the USC *Policy on Research and Scholarship Misconduct*, which is submitted for approval by the Faculty Senate.

You're probably aware that federal regulations require the University to provide certain assurances to our federal research sponsors at the time that the University applies for assistance on behalf of our principal investigators. These assurances include that the University has a policy in place to investigate suspected fabrication, falsification, or plagiarism in the research record (42 CFR §94).

While our University has a policy, *Scientific Misconduct*, in place to address this need, we believe that it is timely to modernize it in a way that contemplates possible misconduct in all areas of federal sponsorship, not just sciences. We further believe that certain aspects of the existing policy make it far too easy for unscrupulous members of our community to dismiss legitimate reports of research misconduct. This, we produced the attached *Policy*, which is intended to replace the existing *Scientific Misconduct* and introduce the following noteworthy changes.

- The name of the policy is changed from "Scientific" to "Research and Scholarship" Misconduct to include the broader swath of sponsored activities to which the policy must be applied.
- A standing Committee on Research Integrity will be formed, consisting of appropriate representation from all applicable schools. This Committee will consult with the Vice President of Research in the appointment of appropriate inquiry/investigation panels and will review ad hoc investigation reports and provide comments and recommendations to the Provost. This replaces the unilateral prerogative of a Dean to dismiss an inquiry complaint, which we see as an opportunity for well-founded reports of violation to be improperly dismissed. The proposed structure brings USC in line with leaders in this area and is modeled after Harvard University.
- Inquiry panels will similarly no longer be appointed by the relevant Dean, but by the VPR, in consultation with the Provost and the Committee on Research Integrity.
- Timelines for completion of the process are well delineated.
- The overall policy is more carefully detailed, acting as a guide for faculty, staff, students as to the investigative process.

We believe that these changes are vital and urgent updates to University Policy, especially in our present environment in which we are striving to set a positive example to our stakeholders in all areas of trustworthiness and integrity.

The attached draft policy was endorsed by unanimous vote of the URC on 7 November, with a vote of 10-0-3 with 10 members present, and is hereby forwarded for the consideration of the Faculty Senate.

Sincerely,



Travis Williams, Chair
University Research Committee

cc. USC Vice President of Research
USC Research Integrity Officer

University of Southern California

Los Angeles, California 90089-1661 • Tel: 213 740 5961 • Fax: 213 740 6679 • travisw@usc.edu



University of Southern California

DRAFT Policy on Research and Scholarship Misconduct

Purpose

The University of Southern California (“USC” or “University”) is committed to the creation of knowledge through research and scholarship. In this mission, USC seeks to ensure the highest degree of integrity in the design, conduct and reporting of research results. Misconduct in research endangers public trust and the pursuit of scientific truth. USC faculty, staff and students are expected to conduct research in accordance with the highest degree of ethical standards and to report concerns of potential research misconduct. The University does not tolerate misconduct in any aspect of research and will promptly and confidentially investigate all allegations.

This policy defines what constitutes research and scholarship misconduct and describes the University policies and procedures for handling research misconduct allegations, including the rights of the person accused and any actions the University may take depending on the outcome of the process. The policies and procedures in this document adhere to federal requirements as well as the University’s due process requirements.

Scope

This policy applies to research and scholarship carried out at USC involving any faculty (including part-time, adjunct and visiting), staff, trainee or students regardless of funding source, if any. This policy is not applicable to research undertaken in fulfillment of a course requirement, unless the data will be recorded in the research record or there is an expectation of publication or dissemination of the results of such research. Allegations of misconduct in academic courses are reviewed by USC Student Judicial Affairs and Community Standards (SJACS) under the provisions contained in SCampus.

The requirements of this policy are subject to the requirements of the law. The University will comply with all laws, regulations and policies with respect to research misconduct. This policy

does specifically exclude general matters of scientific misconduct outside the definition of research misconduct as defined in this policy, such as fiscal improprieties, conflict disclosure, issues concerning the ethical treatment of human or animal research subjects, authorship disputes, sexual harassment or discrimination.

Definitions

- a) **Committee on Research Integrity** – The Committee on Research Integrity is a standing Academic Senate/Provost Committee tasked with:
 - i) Consulting with the VPR in the appointment of appropriate investigation panel and inquiry panel members, and participating in an inquiry or investigation panel when invited.
 - ii) Reviewing the Investigation panel report, commenting and sending recommendations to the Provost. Recommendations should include:
 - (1) Findings of misconduct or not;
 - (2) Responsibility for misconduct if more than one respondent;
 - (3) Severity, aggravating/mitigating factors;
 - (4) Remedial actions to correct the research record, if needed.
 - iii) Participating in an inquiry or investigation panel when invited.

The Committee on Research Integrity is appointed by the Vice President of Research (VPR) in consultation with the President of the Academic Senate. The normal appointment is three years. Any member who has a personal, professional or financial conflict of interest with those who are party to the processes described in this Policy must recuse him/herself from the process.

- b) **Complainant** – A Complainant is a person who, in good faith, makes an allegation of research misconduct.
- c) **Inquiry** – An Inquiry is a preliminary information and fact-finding process regarding a credible allegation of research misconduct that seeks to identify whether sufficient evidence of research misconduct exists to proceed with a formal Investigation.

- d) **Inquiry Panel** – An inquiry panel of no fewer than three people is appointed by the VPR in consultation with the Provost and the Committee on Research Integrity to carry out an Inquiry and draft a report of said Inquiry.
- e) **Investigation** – An Investigation is the formal evaluation and examination of all relevant facts and evidence to determine whether research misconduct occurred and if so, who is responsible.
- f) **Investigation Panel** – An investigation panel of no fewer than three people is appointed by the VPR in consultation with the Provost and the Committee on Research Integrity to carry out an Investigation and draft a report of said Investigation.
- g) **Research** - Research means a systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research), specific knowledge (applied research) or intellectual and intangible (including scholarly research) and reach new conclusions.
- h) **Research Misconduct** - Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing scholarly or research endeavors, or in reporting research results into the research record. Misconduct does not include honest error, differences of opinion, or differences in interpretation or judgements in evaluating research methods or results.
 - (i) Fabrication - Fabrication is making up data or results and recording or reporting them.
 - (ii) Falsification - 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.
 - (iii) Plagiarism - Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit
- i) **Research-Related activities** – Research-related activities are ancillary activities that occur in support of research. Such activities include, but are not limited to, the recording of preliminary research results, research proposals, presentations of preliminary results, presentations in meetings or conferences, posters drafts, final

written reports, and publications. For the purposes of this policy, the terms 'research' and 'research-related activities' are broadly referred to as 'research'.

- j) **Research Integrity Officer (RIO)** - The RIO, appointed by the Vice President of Research (VPR), is the individual responsible for implementing the University's policies and procedures on research misconduct, which includes, but is not limited to:
- i) receiving and assessing allegations of research misconduct to determine if they fall under the procedures set forth in this policy;
 - ii) overseeing sequestration of research data and evidence;
 - iii) determining whether allegations warrant an inquiry;
 - iv) overseeing inquiries and investigations;
 - v) providing assistance to Respondents, Complainants and witnesses, and committees as described in this policy;
 - vi) providing training, technical assistance, and advice to the inquiry and investigation committees;
 - vii) ensuring that Respondents receive all notices and opportunities provided for in these policies and under applicable federal regulations;
 - viii) ensuring that the University's obligations to funding agencies, including all notification and reporting obligations, are fulfilled;
 - ix) taking action, as appropriate, to notify other involved parties, such as sponsors, journals, or licensing boards of institutional findings; and
 - x) maintaining appropriate records of proceedings in accordance with these policies and federal regulations.
- k) **Research Record** - Research record means the record of data, results, or observations that embody the facts resulting from scientific or scholarly inquiry, including without limitation, research proposals, laboratory records and notebooks, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, patents, data sets, software and any documents provided to an institutional official by a Respondent in the course of a research misconduct proceeding.

- l) **Respondent** – A Respondent is the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.
- m) **Retaliation** - Retaliation for the purpose of this policy means an adverse action taken against a Complainant, witness, or committee member by an institution or one of its members in response to:
- A good faith allegation of research misconduct; and/or
 - Good faith cooperation with a research misconduct proceeding.
- n) **Preponderance of the Evidence** - Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Process

- A. **Reporting Allegations** – All members of the University community have an obligation to report good faith suspicions of research misconduct within the scope of this policy. Allegations should be directed to the RIO. Any allegations initially directed to any other administrative office or member of the USC community must be promptly reported to the RIO for assessment.

Allegations may be made verbally or in writing and should include sufficient details such that the issues raised may be clearly identified. Allegations may be made anonymously, but will be assessed in order to determine whether they raise an allegation of research misconduct sufficiently specific to initiate an Inquiry. An allegation should contain the following:

- Name of Respondent(s)
- Names of any witnesses
- Description of misconduct
- When and where misconduct occurred
- Supporting documentation

The University reserves the right to pursue an allegation if the Complainant provides information but declines to make a formal allegation, if the Respondent leaves the University, or if the Respondent admits to the misconduct and signs a statement as such.

- B. **Assessment of Allegations** - Within 10 business days of being notified of an allegation, the RIO, in consultation with the VP of Research, will determine whether the allegation warrants an Inquiry. An Inquiry is warranted if the allegation falls within the definition of research misconduct under this policy and is sufficiently credible and specific so that potential evidence may be identified.

If it is determined, at any time during the process that the allegation was made maliciously and in bad faith the matter will be dealt with in accordance with relevant USC policies and procedures.

- C. **Confidentiality** – During the entire research misconduct proceeding, disclosure of the Respondent, Complainant, witnesses and committee members of a research misconduct proceeding is limited, to the extent possible and allowed by law with a fair and thorough investigation, to those who need to know. Confidentiality is expected of all persons associated with a research misconduct investigation.

- D. **Cooperation with Research Misconduct Proceedings** – All University employees must cooperate with the RIO and other institutional officials in reviewing allegations and conducting inquiries and investigations of research misconduct. University employees, including Respondents, have an obligation to provide evidence relevant to research misconduct to the RIO or other institutional officials.

E. **Inquiry**

- i. Purpose (Scope) – The purpose of the inquiry is to conduct an initial review of the available evidence in order to determine whether sufficient

evidence of misconduct exists to proceed with a formal investigation. An inquiry does not require a full review of all the related evidence.

- ii. Notice to Respondent – At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the Respondent in writing, if the Respondent is known, of the allegations and the decision to proceed to an inquiry. The RIO will provide the Respondent with a copy of this policy and be available to discuss with the Respondent any questions he/she may have regarding the proceedings. If the inquiry subsequently identifies additional Respondents, they must be notified in writing.
- iii. If in consultation with the VPR, the RIO determines the allegation does not constitute a violation of this policy, the RIO shall dismiss the matter without further inquiry.
- iv. Custody of Research Records – On or before the date on which the Respondent is notified of an allegation, the RIO, in consultation with the Respondent's dean and other University officials, as needed, will promptly take all reasonable and practical steps to obtain custody of all research records and evidence that may be necessary to pursue an allegation of research misconduct, including additional records or evidence that are identified as relevant to the allegation during the course of the research misconduct proceeding. Relevant electronic records and evidence will be sequestered. 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. Physical records and evidence will be inventoried and secured and, when appropriate, the Respondent and relevant individuals (e.g., research team members, witnesses) will be provided copies or given reasonably supervised access to the research records.

The lack of research records adequately documenting the research in question may amount to evidence of research misconduct, where it is established that the Respondent:

1. Intentionally, knowingly or recklessly destroyed relevant research records; and/or
 2. Had the opportunity to maintain the records but did not do so; and/or
 3. Failed to produce records in a timely manner.
- v. Appointing an Inquiry Panel – If the RIO, in consultation with the VPR, determines an Inquiry is warranted, the VPR, in consultation with the Provost and the Committee on Research Integrity will appoint an Inquiry Panel consisting of no less than three members. The Panel must be composed of individuals who do not have personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation and conduct the Inquiry.
- vi. Charging of the Inquiry Panel - It is the responsibility of the RIO to charge the committee with its roles and responsibilities and to be available to the committee for any technical assistance it may require.
- vii. Roles and Responsibilities of the Inquiry Panel - The Inquiry Committee's role is as follows:
1. Preliminary Fact-finding – Examine relevant research records and materials, and conduct sufficient interviews and preliminary fact-finding to determine if an allegation is credible and warrants an investigation;
 2. Prepare a report of the Inquiry Committee's findings and conclusion(s) with assistance from the RIO.

viii. Inquiry Report - The inquiry committee, with assistance from the RIO as necessary, shall prepare a written report to the Provost that includes the following information:

1. Name, title and institutional affiliation of committee members;
2. Name, title and institutional affiliation of any consulted expert;
3. Name, title and any institutional affiliation of the Respondent;
4. Name, title and institutional affiliation of the Complainant, as applicable;
5. Funding source supporting the research, including title, grant number, and principal investigator if applicable;
6. The specific allegations reviewed;
7. A description as to where the alleged misconduct was recorded or presented (e.g., grant applications, publications, abstracts, scientific presentations);
8. A summary of all evidence reviewed including all interviews;
9. The conclusions and/or recommendations of the committee and the rationale for them.
10. The Inquiry report should include sufficiently detailed documentation to permit a later assessment, if necessary, of the reasons for recommending that an Investigation was or was not warranted.

ix. Inquiry Report Review – Upon completion of the Inquiry Report the RIO will forward the report to the provost and VPR with his or her comments as to appropriate next steps. The provost may elect to send the report to the Committee on Research Integrity for review if he or she believes additional review is warranted.

x. Criteria Warranting an Investigation – An investigation is warranted if there is:

1. A reasonable basis for concluding that the allegation falls within the definition of research misconduct under this policy; and/or
 2. Preliminary information-gathering and preliminary fact-finding from the Inquiry indicates that the allegation may have substance.
- xi. Notification of the Committee finding to the Respondent and Opportunity to Comment - The RIO will make a good faith attempt to notify the Respondent in writing of the determination of the inquiry committee, provide a draft copy of the inquiry report and a copy of this policy. The Respondent has 15 calendar days to respond to the report to the RIO. All comments made by the Respondent and any rebuttal by the committee must be included in the final report.
- xii. Determination - The RIO will distribute the finalized Inquiry report to the Respondent, the VPR and the appropriate Dean. Within 7 calendar days the VPR shall forward the inquiry committee's report, conclusions and recommendations, and any comments regarding the report and the committee's findings to the Provost for determination.

If the Committee does not find sufficient evidence in support of the allegation of research misconduct, the Dean will review the report and comment. The Dean will then forward the report and comments to the Provost for determination. The RIO will notify the Respondent in writing if an investigation will not be initiated.

- xiii. Time for Completion - All processes of the inquiry must be completed within 60 calendar days of its initiation unless circumstances warrant a longer period. If the Inquiry requires longer than 60 days, the inquiry committee must request additional time in writing from the RIO and provide documentation as to the reasons for requiring additional time. If applicable, the RIO must request an extension from any relevant federal

agencies and notify the Respondent when an extension has been granted.

- xiv. Reporting - Within 30 days of finding that an Investigation is warranted, the Institution must provide any relevant federal agency, or sponsor as required with a copy of the Inquiry report and all research records and evidence reviewed.

F. Investigation

- i. Notice to Respondent - If the Provost determines an investigation is warranted, the Investigation must be initiated within 30 days after that determination has been made. On or before the date on which the investigation begins, the RIO will make a good faith effort to notify the Respondent of the decision to proceed with an Investigation as well as the rights and responsibilities of the Respondent during the investigation process.

If during the Inquiry or Investigation additional instances of possible misconduct are discovered, or if other Respondents are identified, the RIO will decide whether to broaden the scope of the Investigation beyond the original allegation or whether a new and distinct Inquiry should occur. In either case the Respondent(s) will be notified in writing.

- ii. Custody of Research Records – The RIO will take all reasonable and practical steps, on or before the date on which the Respondent is notified of the Investigation, to obtain custody of, inventory, and sequester in a secure manner all research records and evidence needed to conduct the Investigation that were not previously sequestered before or during the inquiry.
- iii. Appointing an Investigation Panel – Within 30 days upon determining that an Investigation is required, the VPR, in consultation with the Committee on Research Integrity, shall appoint an Investigation Panel of no fewer than 3 people knowledgeable in the standards of the Respondent’s research and scholarship. If the Respondent is a faculty member. The members should not

have personal, professional or financial conflicts of interest with those involved with those, who are party to the investigation.

- iv. Charging of the Investigation Panel – it is the responsibility of the RIO to charge the Panel with its roles and responsibilities and to be available to the Panel for any technical assistance it may require.
- v. Investigation Panel Responsibilities – The Investigation Panel must:
 - 1. Use diligent efforts to ensure that the Investigation is thorough, sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation. These efforts include, but are not limited to research data and proposals, publications, and communication;
 - 2. Take all reasonable and practical steps to obtain custody, inventory and secure research records and evidence needed to conduct the Investigation;
 - 3. Conduct recorded and/or transcribed interviews of each Respondent, Complainant and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation. A transcribed interview must be provided to the interviewee for correction and included in the record of the investigation;
 - 4. Diligently pursue all significant issues and leads discovered during the investigation that are relevant, including any evidence of additional instances of possible research misconduct;
 - 5. Secure any necessary and appropriate expertise in consultation with the RIO and the VPR;
 - 6. Maintain confidentiality of the Respondent, Complainant and all witnesses to the extent possible;
 - 7. Continue the investigation to completion;

8. Make a determination of whether research misconduct occurred and, if so, who is responsible;
 9. Prepare a draft report and consider comments from the Respondent;
 10. Submit a final report to the RIO.
- vi. Investigation Report – In developing its finding, the investigation committee will act by simple majority vote of its members based upon the preponderance of evidence. The RIO will assist the investigation committee in finalizing the draft and final investigation report, ensuring that the Respondent's comments are considered in the analysis and are also attached as an appendix to the final report. The investigation report should include:
1. Name, title and institutional affiliation of committee members;
 2. Name, title and institutional affiliation of any consulted expert;
 3. Name, title and any institutional affiliation of the Respondent;
 4. Name, title and institutional affiliation of the Complainant, as applicable;
 5. Funding source supporting the research, including title, grant number, and principal investigator if applicable for each allegation;
 6. A statement of findings for each separate allegation of research misconduct identified during the investigation as to whether research misconduct did or did not occur, and If so:
 - a. Identify whether the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;
 - b. Identify the person(s) responsible for the misconduct;
 - c. Summarize the facts and the analysis which support the conclusion;

- d. Identify whether any publications need correction or retraction;
 - e. A summary of all evidence reviewed including all interviews;
- 7. The recommendations of the committee and their rationale. In making recommendations, the committee should consider:
 - a. The seriousness of the misconduct, including (but not limited to) consideration of the degree to which the misconduct was knowing, intentional or reckless;
 - b. Whether it was an isolated event or part of a pattern;
 - c. Whether it had a significant impact on the research record, research subjects, other researchers, the institutions, or the public welfare;
- 8. A link to this policy; and
- 9. Identification and summary of the research records and evidence reviewed, as well as a list of all records taken into custody.
- vii. Committee on Research Integrity Investigation Report Review – Upon completion of the investigation Report, the RIO will forward the Report to the Committee. The Committee shall review the facts and recommendations of the Report and shall make a final recommendation for the Provost and the VPR whether or not to accept the recommendations of the Investigation Panel. If the Committee does not agree with the Panel’s recommendations, the committee may:
 - 1. Task the panel to further gather/review evidence;
 - 2. Make an alternate recommendation, to the Provost, with comments and rationale.
- viii. Findings of Research Misconduct – A finding of research misconduct requires all of the following:

1. There be a significant departure from accepted practices of the relevant research community;
 2. The misconduct be committed intentionally, knowingly, or recklessly; and
 3. The allegation be proven by a preponderance of the evidence.
- ix. Notification of the investigation Committees findings to the Respondent and Opportunity to Comment - The RIO must give the Respondent a copy of the investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The Respondent must submit comments to the RIO within 30 days from the date he/she received the draft report. The Respondent's comments must be included and considered in the final report.
- x. Determination - The RIO will submit the report, the Committee recommendations and copies of all evidence cited to the VPR, Provost and appropriate Dean. Within 21 calendar days of receipt, the Provost will determine whether USC accepts the final investigation report, its findings, and some or all of the recommended institutional actions. If the Provost's determination varies from the findings of the Committee, the Provost will explain in writing the basis for rendering a decision different from the findings of the Committee. Alternatively, the Provost may return the report to the Committee with a request for further fact-finding or analysis. USC has the authority to make a determination of research misconduct that exceeds regulatory provisions or may not fully align with federal regulations, but is deemed appropriate given the particular circumstances of a case.
- xi. Timing - All aspects of the Investigation must be completed within 120 business days of beginning, including conducting the Investigation, preparing the report of findings, providing the draft report for comment and final decision making by the Provost. However, if, in consultation with the Investigation committee the RIO

determines that the Investigation will not be completed within this period the RIO will document the reasons for the need for an extension, estimate the additional amount of time necessary to complete the investigation and request an extension from the provost and any relevant government agencies. The RIO will notify the Respondent of any time extensions.

xii. Sanctions/administrative actions/corrective actions

1. Faculty - In the case of a faculty member with tenure or whose contract or appointment has not expired, if the Provost determines that research misconduct has occurred, a referral will be made to the Committee on Professional Responsibility Sanctioning Panel for consideration. (See Faculty Handbook 6-AA (3)).
2. Staff or Other Non-Faculty Employees (excepting Postdoctoral Associates) - In the case of a staff member or other non-faculty employee whom the Provost determines to have committed research misconduct, the Provost will refer the findings to the Senior Vice President for Human Resources who will prescribe the remedial or disciplinary action. (See USC Policy on Staff Disciplinary Actions: <https://policy.usc.edu/staff-disciplinary-practices/>)
3. Postdoctoral Research Scholars - In the case of a postdoctoral scholar whom the Provost determines to have committed research misconduct, the Provost will take appropriate disciplinary action, up to and including termination of the postdoctoral appointment. Alternatively, the Provost, at his or her discretion, can refer the matter to the Dean for a determination regarding the appropriate disciplinary action.
4. Students - In the event the Provost determines that a graduate, professional or other student employee to whom this policy

applies has committed research misconduct, the matter shall be referred to the USC Student Judicial Affairs and Community Standards for resolution pursuant to the procedures identified in SCAMPUS, the USC Student Handbook. Alternatively, in the case of a graduate or professional student employee, the Provost, at his or her discretion, can refer the matter to the Dean for a determination regarding the appropriate disciplinary action.

xiii. Reporting – the RIO must submit to any relevant federal agency or sponsors as required, within the required time frames:

1. A copy of the final investigation report with all attachments;
2. A statement of whether the institution accepts the findings of the investigation report;
3. A statement of whether the institution found misconduct and, if so, who committed the misconduct;
4. A description of any pending or completed institutional actions against the Respondent.
5. If requested by a federal agency or sponsor, the Provost may elect to reopen an investigation, even if a final investigative report has been completed and accepted. Respondents will continue to have a duty to cooperate in an investigation in such a circumstance.

xiv. The Provost, at his or her discretion, is permitted to publicize the outcome of an investigation as warranted.

G. **Admission** - The Respondent should be given the opportunity to admit that research misconduct occurred and that he/she committed the research misconduct. If an admission is made by the Respondent, or any other individual at any stage of the research misconduct process, the RIO will develop a written statement that is fully responsive to the allegation after appropriate consultation with the investigation committee, relevant University officials and federal agencies as required. An admission

of research misconduct does not preclude termination of the research misconduct proceeding nor otherwise limit any of the Institution's responsibilities to any applicable federal agencies.

- H. **Termination or Resignation of the Respondent Prior to Completing the Inquiry or Investigation** - The termination of the Respondent's institutional employment or enrollment, by resignation, withdrawal or otherwise, before or after an allegation of research misconduct has been reported does not preclude or terminate the research misconduct proceeding nor otherwise limit any of the institution's responsibilities to any applicable federal agencies.
- I. **Retaliation** – The law and University policy prohibit threatened, attempted, or actual retaliation against anyone party to a research misconduct proceeding.
- J. **Record retention** – All relevant records and evidence the institution secured for the research misconduct proceeding, as well as the investigation report and all records in support of that report, including recordings or transcriptions of each interview conducted must be maintained in a secure manner for 7 years after the completion of the proceeding.

University of Southern California

DRAFT Policy on Research and Scholarship Misconduct

Purpose

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The Committee on Research Integrity is appointed by the Vice President of Research (VPR) in consultation with the President of the Academic Senate. The normal appointment is three years. Any member who has a personal, professional or financial conflict of interest with those who are party to the processes described in this Policy must recuse him/herself from the process.

- b) **Complainant** – A Complainant is a person who, in good faith, makes an allegation of research misconduct.
- c) **Inquiry** – An Inquiry is a preliminary information and fact-finding process regarding a credible allegation of research misconduct that seeks to identify whether sufficient evidence of research misconduct exists to proceed with a formal Investigation.

- d) **Inquiry Panel** – An inquiry panel of no fewer than three people is appointed by the VPR in consultation with the Provost and the Committee on Research Integrity to carry out an Inquiry and draft a report of said Inquiry.
- e) **Investigation** – An Investigation is the formal evaluation and examination of all relevant facts and evidence to determine whether research misconduct occurred and if so, who is responsible.
- f) **Investigation Panel** – An investigation panel of no fewer than three people is appointed by the VPR in consultation with the Provost and the Committee on Research Integrity to carry out an Investigation and draft a report of said Investigation.
- g) **Research** - Research means a systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research), specific knowledge (applied research) or intellectual and intangible (including scholarly research) and reach new conclusions.
- h) **Research Misconduct** - Research misconduct means fabrication, falsification, or plagiarism in proposing, performing, or reviewing scholarly or research endeavors, or in reporting research results into the research record. Misconduct does not include honest error, differences of opinion, or differences in interpretation or judgements in evaluating research methods or results.
 - (i) **Fabrication** - Fabrication is making up data or results and recording or reporting them. Generally, fabricated results are those that are not supported by research that was performed.
 - (ii) **Falsification** - 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.
 - (iii) **Plagiarism** - Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit
- i) **Research-Related activities** – Research-related activities are ancillary activities that occur in support of research. Such activities include, but are not limited to, the recording of preliminary research results, research proposals, presentations of

preliminary results, presentations in meetings or conferences, posters drafts, final written reports, and publications. For the purposes of this policy, the terms 'research' and 'research-related activities' are broadly referred to as 'research'.

j) **Research Integrity Officer (RIO)** - The RIO, appointed by the Vice President of Research (VPR), is the individual responsible for implementing the University's policies and procedures on research misconduct, which includes, but is not limited to:

- i) receiving and assessing allegations of research misconduct to determine if they fall under the procedures set forth in this policy;
- ii) overseeing sequestration of research data and evidence;
- iii) determining whether allegations warrant an inquiry;
- iv) overseeing inquiries and investigations;
- v) providing assistance to Respondents, Complainants and witnesses, and committees as described in this policy;
- vi) providing training, technical assistance, and advice to the inquiry and investigation committees;
- vii) ensuring that Respondents receive all notices and opportunities provided for in these policies and under applicable federal regulations;
- viii) ensuring that the University's obligations to funding agencies, including all notification and reporting obligations, are fulfilled;
- ix) taking action, as appropriate, to notify other involved parties, such as sponsors, journals, or licensing boards of institutional findings; and
- x) maintaining appropriate records of proceedings in accordance with these policies and federal regulations.

k) **Research Record** - Research record means the record of data, results, or observations that embody the facts resulting from scientific or scholarly inquiry, including without limitation, research proposals, laboratory records and notebooks, progress reports, abstracts, theses, oral presentations, internal reports, journal articles, patents, data sets, software and any documents provided to an institutional official by a Respondent in the course of a research misconduct proceeding.

- l) **Respondent** – A Respondent is the person against whom an allegation of research misconduct is directed or who is the subject of a research misconduct proceeding.
- m) **Retaliation** - Retaliation for the purpose of this policy means an adverse action taken against a Complainant, witness, or committee member by an institution or one of its members in response to:
- A good faith allegation of research misconduct; and/or
 - Good faith cooperation with a research misconduct proceeding.
- n) **Preponderance of the Evidence** - Preponderance of the evidence means proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Process

- A. **Reporting Allegations** – All members of the University community have an obligation to report good faith suspicions of research misconduct within the scope of this policy. Allegations should be directed to the RIO. Any allegations initially directed to any other administrative office or member of the USC community must be promptly reported to the RIO for assessment.

Allegations may be made verbally or in writing and should include sufficient details such that the issues raised may be clearly identified. Allegations may be made anonymously, but will be assessed in order to determine whether they raise an allegation of research misconduct sufficiently specific to initiate an Inquiry. An allegation should contain the following:

- Name of Respondent(s)
- Names of any witnesses
- Description of misconduct
- When and where misconduct occurred
- Supporting documentation

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The University reserves the right to pursue an allegation if the Complainant provides information but declines to make a formal allegation, if the Respondent leaves the University, or if the Respondent admits to the misconduct and signs a statement as such.

- B. **Assessment of Allegations** - Within 10 business days of being notified of an allegation, the RIO, in consultation with the VP of Research, will determine whether the allegation warrants an Inquiry. An Inquiry is warranted if the allegation falls within the definition of research misconduct under this policy and is sufficiently credible and specific so that potential evidence may be identified.

If it is determined, at any time during the process that the allegation was made maliciously and in bad faith the matter will be dealt with in accordance with relevant USC policies and procedures.

- C. **Confidentiality** – During all research misconduct inquiries and investigations, disclosure of the identities of the involved Respondents, Complainants, witnesses and committee members will be limited to the extent possible to those who need to know those identities to complete a fair and thorough investigation, although additional disclosures may be necessary to comply with the University's legal obligations. Confidentiality will also be maintained for all records and evidence that might identify research subjects, except as needed to carry out the research misconduct proceeding or as required by law.

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- D. **Cooperation with Research Misconduct Proceedings** – All University employees must cooperate with the RIO and other institutional officials in reviewing allegations and conducting inquiries and investigations of research misconduct. University employees, including Respondents, have an obligation to provide evidence relevant to research misconduct to the RIO or other institutional officials.

- E. **Inquiry**

- i. Purpose (Scope) – The purpose of the inquiry is to conduct an initial review of the available evidence in order to determine whether sufficient evidence of misconduct exists to proceed with a formal investigation. An inquiry does not require a full review of all the related evidence.
- ii. Notice to Respondent – At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the Respondent in writing, if the Respondent is known, of the allegations and the decision to proceed to an inquiry. The RIO will provide the Respondent with a copy of this policy and be available to discuss with the Respondent any questions he/she may have regarding the proceedings. If the inquiry subsequently identifies additional Respondents, they must be notified in writing.
- iii. Finding of No Violation – If in consultation with the VPR, the RIO determines the allegation does not constitute a violation of this policy, the RIO shall dismiss the matter without further inquiry.
- iv. Custody of Research Records – On or before the date on which the Respondent is notified of an allegation, the RIO, in consultation with the Respondent's dean and other University officials, as needed, will promptly take all reasonable and practical steps to obtain custody of all research records and evidence that may be necessary to pursue an allegation of research misconduct, including additional records or evidence that are identified as relevant to the allegation during the course of the research misconduct proceeding. Relevant electronic records and evidence will be sequestered. 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. Physical records and evidence will be inventoried and secured and, when appropriate, the Respondent and relevant individuals (e.g., research team members, witnesses) will be

provided copies or given reasonably supervised access to the research records.

The lack of research records adequately documenting the research in question may amount to evidence of research misconduct, where it is established that the Respondent:

1. Intentionally, knowingly or recklessly destroyed relevant research records; and/or
 2. Had the opportunity to maintain the records but did not do so; and/or
 3. Failed to produce records in a timely manner.
- v. Appointing an Inquiry Panel – If the RIO, in consultation with the VPR, determines an Inquiry is warranted, the VPR, in consultation with the Provost and the Committee on Research Integrity will appoint an Inquiry Panel consisting of no less than three members. The Panel must be composed of individuals who do not have personal, professional, or financial conflicts of interest with those involved with the inquiry and should include individuals with the appropriate scientific expertise to evaluate the evidence and issues related to the allegation and conduct the Inquiry. When appropriate, the Inquiry Panel should be comprised of at least one member from the Committee on Research Integrity.
- vi. Charging of the Inquiry Panel - It is the responsibility of the RIO to charge the committee with its roles and responsibilities and to be available to the committee for any technical assistance it may require.
- vii. Roles and Responsibilities of the Inquiry Panel - The Inquiry Committee's role is as follows:
1. Preliminary Fact-finding – Examine relevant research records and materials, and conduct sufficient interviews and preliminary fact-finding to determine if an allegation is credible and warrants an

investigation; it is not the role of the Inquiry Committee to conduct a full and thorough review of the evidence related to the allegation, but instead only to make this preliminary determination;

2. Prepare a report of the Inquiry Committee's findings and conclusion(s) with assistance from the RIO.

viii. Inquiry Report - The Inquiry Panel, with assistance from the RIO as necessary, shall prepare a written report to the Provost that includes the following information:

1. Name, title and institutional affiliation of committee members;
2. Name, title and institutional affiliation of any consulted expert;
3. Name, title and any institutional affiliation of the Respondent;
4. Name, title and institutional affiliation of the Complainant, as applicable;
5. Funding source supporting the research, including title, grant number, and principal investigator if applicable;
6. The specific allegations reviewed;
7. A description as to where the alleged misconduct was recorded or presented (e.g., grant applications, publications, abstracts, scientific presentations);
8. A summary of all evidence reviewed including all interviews;
9. The conclusions and/or recommendations of the committee and the rationale for them.
10. The Inquiry report should include sufficiently detailed documentation to permit a later assessment, if necessary, of the reasons for recommending that an Investigation was or was not warranted.

ix. Criteria Warranting an Investigation – An Investigation is warranted if there is:

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1. A reasonable basis for concluding that the allegation falls within the definition of research misconduct under this policy; and/or
2. Preliminary information-gathering and preliminary fact-finding from the Inquiry indicates that the allegation may have substance.

x. Notification of the Inquiry Panel's recommendations to the Respondent and Opportunity to Comment. – The RIO will make a good faith attempt to notify the Respondent in writing of the determination of the Inquiry Panel, provide a draft copy of the inquiry report and a copy of this policy. The Respondent has 15 calendar days to respond to the report to the RIO. All comments made by the Respondent and any rebuttal by the committee must be included in the final report.

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xi. Determination – The RIO will distribute the finalized Inquiry report to the Respondent, the VPR and the appropriate Dean. Within 7 calendar days the VPR shall forward the inquiry committee's report, conclusions and recommendations, and any comments regarding the report and the committee's findings to the Provost for determination.

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If the Committee does not find sufficient evidence in support of the allegation of research misconduct, the Dean will review the report and comment. The Dean will then forward the report and comments to the Provost for determination. The Provost may elect to send the report to the Committee on Research Integrity for review if he or she believes additional review is warranted. The RIO must notify the Respondent in writing regarding the Provost's final determination.

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xii. Time for Completion – All processes of the inquiry must be completed within 60 calendar days of its initiation unless circumstances warrant a longer period. If the Inquiry requires longer than 60 days, the inquiry committee must request additional time in writing from the RIO and provide documentation as to the reasons for requiring additional time. If applicable, the RIO must request an extension from any relevant federal

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agencies and notify the Respondent when an extension has been granted.

- xiii. Reporting – Within 30 days of finding that an Investigation is warranted, the Institution must provide any relevant federal agency, or sponsor as required with a copy of the Inquiry report and all research records and evidence reviewed.

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F. Investigation

- i. Notice to Respondent - If the Provost determines an investigation is warranted, the Investigation must be initiated within 30 days after that determination has been made. On or before the date on which the investigation begins, the RIO will make a good faith effort to notify the Respondent of the decision to proceed with an Investigation as well as the rights and responsibilities of the Respondent during the investigation process.

If during the Inquiry or Investigation additional instances of possible misconduct are discovered, or if other Respondents are identified, the RIO will decide whether to broaden the scope of the Investigation beyond the original allegation or whether a new and distinct Inquiry should occur. In either case the Respondent(s) will be notified in writing.

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- ii. Custody of Research Records – The RIO will take all reasonable and practical steps, on or before the date on which the Respondent is notified of the Investigation, to obtain custody of, inventory, and sequester in a secure manner all research records and evidence needed to conduct the Investigation that were not previously sequestered before or during the inquiry.

- iii. Appointing an Investigation Panel – Within 30 days after a determination is made that an Investigation is required, the VPR, in consultation with the Committee on Research Integrity, shall appoint an Investigation Panel of no fewer than 3 people knowledgeable in the standards of the Respondent's research and scholarship. The members should not have personal, professional or financial conflicts of interest with those involved with those, who are party to

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the investigation. The Investigation Panel may contain members from the Inquiry Panel.

- iv. Charging of the Investigation Panel – it is the responsibility of the RIO to charge the Panel with its roles and responsibilities and to be available to the Panel for any technical assistance it may require.
- v. Investigation Panel Responsibilities – The Investigation Panel must:
 - 1. Use diligent efforts to ensure that the Investigation is thorough, sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each allegation. These efforts include, but are not limited to research data and proposals, publications, and communication;
 - 2. Take all reasonable and practical steps to obtain custody, inventory and secure research records and evidence needed to conduct the Investigation;
 - 3. Conduct recorded and/or transcribed interviews of each Respondent, Complainant and any other available person who has been reasonably identified as having information regarding any relevant aspects of the investigation. A transcribed interview must be provided to the interviewee for correction and included in the record of the investigation;
 - 4. Diligently pursue all significant issues and leads discovered during the investigation that are relevant, including any evidence of additional instances of possible research misconduct;
 - 5. Secure any necessary and appropriate expertise in consultation with the RIO and the VPR;
 - 6. Maintain confidentiality of the Respondent, Complainant and all witnesses to the extent possible;
 - 7. Continue the investigation to completion;

8. Make a recommendation of whether research misconduct occurred and, if so, who is responsible;
9. Prepare a draft report and consider comments from the Respondent;
10. Submit a final report to the RIO.

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vi. Investigation Report – In developing its finding, the investigation committee will act by simple majority vote of its members based upon the preponderance of evidence. The RIO will assist the investigation committee in finalizing the draft and final investigation report, ensuring that the Respondent's comments are considered in the analysis and are also attached as an appendix to the final report. The investigation report should include:

1. Name, title and institutional affiliation of committee members;
2. Name, title and institutional affiliation of any consulted expert;
3. Name, title and any institutional affiliation of the Respondent;
4. Name, title and institutional affiliation of the Complainant, as applicable;
5. Funding source supporting the research, including title, grant number, and principal investigator if applicable for each allegation;
6. A statement of findings for each separate allegation of research misconduct identified during the investigation as to whether research misconduct did or did not occur, and If so:
 - a. Identify whether the research misconduct was falsification, fabrication, or plagiarism, and if it was intentional, knowing, or in reckless disregard;
 - b. Identify the person(s) responsible for the misconduct;
 - c. Summarize the facts and the analysis which support the conclusion;

- d. Identify whether any publications need correction or retraction;
 - e. A summary of all evidence reviewed including all interviews;
 - 7. The recommendations of the committee and their rationale. In making recommendations, the committee should consider:
 - a. The seriousness of the misconduct, including (but not limited to) consideration of the degree to which the misconduct was knowing, intentional or reckless;
 - b. Whether it was an isolated event or part of a pattern;
 - c. Whether it had a significant impact on the research record, research subjects, other researchers, the institutions, or the public welfare;
 - 8. A link to this policy; and
 - 9. Identification and summary of the research records and evidence reviewed, as well as a list of all records taken into custody.
- vii. Committee on Research Integrity Investigation Report Review – Upon completion of the investigation Report, the RIO will forward the Report to the Committee. The Committee shall review the facts and recommendations of the Report and shall make a final recommendation for the Provost and the VPR whether or not to accept the recommendations of the Investigation Panel. If the Committee does not agree with the Panel's recommendations, the committee may:
- 1. Task the panel to further gather/review evidence;
 - 2. Make an alternate recommendation, to the Provost, with comments and rationale.
- viii. Findings of Research Misconduct – A finding of research misconduct requires all of the following:

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

ix. Notification of the investigation Committees findings to the Respondent and

Opportunity to Comment – The RIO must give the Respondent a copy of the investigation report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The Respondent must submit comments to the RIO within 30 days from the date he/she received the draft report. The Respondent’s comments must be included and considered in the final report.

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- x. Determination – The RIO will submit the report, the Committee recommendations and copies of all evidence cited to the VPR, Provost and appropriate Dean. Within 21 calendar days of receipt, the Provost will determine whether USC accepts the final investigation report and its findings. If the Provost’s determination varies from the findings of the Committee, the Provost will explain in writing the basis for rendering a decision different from the findings of the Committee. Alternatively, the Provost may return the report to the Committee with a request for further fact-finding or analysis. USC has the authority to make a determination of research misconduct that exceeds regulatory provisions or may not fully align with federal regulations, but is deemed appropriate given the particular circumstances of a case.

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- xi. Timing – All aspects of the Investigation must be completed within 120 business days of beginning, including conducting the Investigation, preparing the report of findings, providing the draft report for comment and final decision making by the Provost. However, if, in consultation with the Investigation committee the RIO determines that the Investigation will not be completed within this period the

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RIO will document the reasons for the need for an extension, estimate the additional amount of time necessary to complete the investigation and request an extension from the Provost and any relevant government agencies. The RIO will notify the Respondent of any time extensions.

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xii. Sanctions/administrative actions/corrective actions

1. Faculty - In the case of a faculty member with tenure or whose contract or appointment has not expired, if the Provost determines that research misconduct has occurred, a referral will be made to the Committee on Professional Responsibility Sanctioning Panel for consideration. (See Faculty Handbook 6-AA (3)).
2. Staff or Other Non-Faculty Employees (excepting Postdoctoral Associates) - In the case of a staff member or other non-faculty employee whom the Provost determines to have committed research misconduct, the Provost will refer the findings to the Senior Vice President for Human Resources who will prescribe the remedial or disciplinary action. (See USC Policy on Staff Disciplinary Actions: <https://policy.usc.edu/staff-disciplinary-practices/>)
3. Postdoctoral Research Scholars - In the case of a postdoctoral scholar whom the Provost determines to have committed research misconduct, the Provost will take appropriate disciplinary action, up to and including termination of the postdoctoral appointment. Alternatively, the Provost, at his or her discretion, can refer the matter to the Dean for a determination regarding the appropriate disciplinary action.
4. Students - In the event the Provost determines that a graduate, professional or other student employee to whom this policy applies has committed research misconduct, the matter shall be

referred to the USC Student Judicial Affairs and Community Standards for resolution pursuant to the procedures identified in SCAMPUS, the USC Student Handbook. Alternatively, in the case of a graduate or professional student employee, the Provost, at his or her discretion, can refer the matter to the Dean for a determination regarding the appropriate disciplinary action.

xiii. Reporting – the RIO must submit to any relevant federal agency or sponsors as required, within the required time frames:

1. A copy of the final investigation report with all attachments;
2. A statement of whether the institution accepts the findings of the investigation report;
3. A statement of whether the institution found misconduct and, if so, who committed the misconduct;
4. A description of any pending or completed institutional actions against the Respondent.
5. If requested by a federal agency or sponsor, the Provost may elect to reopen an investigation, even if a final investigative report has been completed and accepted. Respondents will continue to have a duty to cooperate in an investigation in such a circumstance.

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xiv. The RIO is also responsible for notifying the appropriate government agency (or agencies) within the agency's required time frames if he/she ascertains at any stage of the Preliminary Inquiry, Investigation, Hearing, that any of the following conditions exist:

1. There is an immediate public safety or health risk involved, including an immediate need to protect human or animal subjects;
2. There is an immediate need to protect Federal funds or equipment;
3. There is a need to suspend research activities;

4. It is probable that the alleged incident is going to be reported prematurely to the public, so that appropriate steps are needed to safeguard evidence and protect the rights of those involved;
5. The research community or public should be informed; or
6. There is a reasonable indication of possible violations of civil or criminal law.

xv. The Provost, at his or her discretion, is permitted to publicize the outcome or status of an investigation as warranted.

- G. **Admission** - The Respondent should be given the opportunity to admit that research misconduct occurred and that he/she committed the research misconduct. If an admission is made by the Respondent, or any other individual at any stage of the research misconduct process, the RIO will develop a written statement that is fully responsive to the allegation after appropriate consultation with the investigation committee, relevant University officials and federal agencies as required. An admission of research misconduct does not preclude termination of the research misconduct proceeding nor otherwise limit any of the Institution's responsibilities to any applicable federal agencies.
- H. **Termination or Resignation of the Respondent Prior to Completing the Inquiry or Investigation** - The termination of the Respondent's institutional employment or enrollment, by resignation, withdrawal or otherwise, before or after an allegation of research misconduct has been reported does not preclude or terminate the research misconduct proceeding nor otherwise limit any of the institution's responsibilities to any applicable federal agencies.
- I. **Retaliation** – The law and University policy prohibit threatened, attempted, or actual retaliation against anyone involved in a research misconduct proceeding.
- J. **Record retention** – All relevant records and evidence the institution secured for the research misconduct proceeding, as well as the investigation report and all records in support of that report, including recordings or transcriptions of each interview

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conducted must be maintained in a secure manner for 7 years after the completion of the proceeding.

DRAFT

20 February 2020

Rebecca Lonergan, President
USC Faculty Senate
699 Exposition Blvd
Los Angeles, CA 90089-0071

Dear Rebecca,

Attached please find a revised version of the USC *Research Personnel Protection Policy*, which is submitted for approval by the Faculty Senate.

USC and its employees are bound by the California Health and Safety Code, 8 CCR §5191, and the USC Office of Environmental Health and Safety is tasked with promoting compliance with the Code. We are also subject to precedent established in the case of *People v. Harran*, in which the Superior Court of California (County of Los Angeles) found that both the University of California and an individual principle investigator can be convicted for violations of the Code that include improper training of laboratory personnel and insufficient laboratory safety infrastructure. The University of California exited this prosecution in 2012 through the UC Regents Settlement, which created detailed and highly rigorous lab safety standards applicable to all UC campuses. The governor's office subsequently launched an audit of safety practices of four campuses of the California State University in 2018 following injuries sustained in a dimethylformamide spill at Sacramento State. While USC is subject to the Code and the precedent set in *People v. Harran*, we are not a target of the CalState audit or party to the UC Regents Settlement. EHS leadership and our USC Chemical Safety Committee expect, however, that the latter will be the standard that investigators use to measure us when we inevitably become the target of a Cal-OSHA investigation. Thus, EHS and the Office of Research have been making incremental progress toward implementation of the UC Regents Settlement as we have pursued compliance with 8 CCR §5191.

Our progress to bring USC into step with the UCs in laboratory safety has been hampered by the lack of any USC policy requiring basic cooperation among EHS, FMS, the schools, and supervisors of laboratory workspaces, including faculty PIs. This hole in University policy has enabled administrative units to neglect their responsibilities to safety infrastructure and placed faculty in legally vulnerable positions wherein they have civil and criminal responsibility for the safety of students in their labs, courses, and clubs, but have no reasonable way to provide the requisite oversight.

Further urgency is added to our mission to promote safety culture at USC by a report of the National Academies, *Safe Science: Promoting a Culture of Safety in Academic Chemical Research* (2014), that called out weak safety culture across American academia as a threat to the health and safety of future scientists, a critical shortfall of scientific and medical training in the United States, and a potential stain on the reputation of our national scientific enterprise, citing fatal and near-fatal accidents at UCLA (2008) and Texas Tech University (2010). *The National Academies explicitly call on institutions to "establish policy and deploy resources to maximize a strong, positive safety culture."*

Thus, we produce the attached *Policy*, in which we introduce the following noteworthy provisions.

- The role of EHS is defined as collaborative, not investigatory or prosecutorial.
- Administration is charged with providing workspaces that are code compliant.
- Workplace managers (including PIs) are tasked with discharging their responsibilities to safety oversight.

University of Southern California

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- All employees are tasked with participation in appropriate safety programs and training.
- Academic units are required to provide faculty or staff supervision when students or student TAs are present in co-curricular courses that involve high-hazard laboratory activities.
- Academic units are encouraged to consider PI safety record in decisions of promotion, tenure, and merit review, as explicitly recommended by the National Academies.
- USC FMS is required to respond in a timely way to violations of 8 CCR §5191.
- Violations of safety policy are equated with professional misconduct.

We believe that these changes are vital and urgent updates to University Policy, especially in our present environment in which we are striving to set a positive example to our stakeholders in all areas of trustworthiness and student safety and to live up to the expectations of our scientific peers.

The attached draft policy was endorsed by unanimous vote of the URC on 20 February 2020, with a vote of 10-0-1 with 10 members voting, and it is hereby forwarded for the consideration of the Faculty Senate.

The first recommendation of our National Academies in their 2014 report is that “*The president and other institutional leaders must actively demonstrate that safety is a core value of the institution and show an ongoing commitment to it.*” I emphatically encourage the Senate to lead in USC’s implementation of this spirit.

Sincerely,



Travis Williams, Chair
University Research Committee

cc. USC Vice President of Research
Director and Deputy Director, USC Office of Environmental Health and Safety

RESEARCH PERSONNEL PROTECTION POLICY

Safety is a core value at USC. The University is committed to advancement of an institutional safety culture, with strong programs of personal safety, accident and injury prevention, and compliance with applicable environmental and health and safety laws and regulations.

USC commits to making all reasonable efforts to

- Promote occupational and personal health and safety;
- Protect the health and safety of USC students, faculty, staff, and visitors;
- Provide information to faculty, staff, students, and visitors about health and safety hazards;
- Identify and correct health and safety hazards and encourage reporting of potential hazards; and
- Conduct activities in a manner that protects the environment of our workplaces.

Everyone at USC is expected to perform work safely, regardless of their position in the University. For employees, safety is an expectation and, where appropriate, part of their evaluation. Managers and supervisors are further responsible for the safety of the people under their supervision. They are expected to establish and maintain a system of training, positive reinforcement, and escalated discipline to support good health and safety practices.

SCOPE

This policy defines the responsibilities of faculty, staff, students, and visitors toward making USC a safe place to perform work, study, and conduct research. The policy applies to all USC faculty, staff, students, and unpaid visitors working within USC laboratories, USC-owned or -leased sites, and USC-controlled remote field locations, with these exceptions:

- Children's Hospital of Los Angeles, which is responsible for safety in its own facilities;
- LA County Department of Health Services-owned hospitals and clinics, for which the county is responsible;
- Student activities outside of USC owned or leased facilities, when such activities are not directed by a USC faculty or staff member.

In addition to this policy, each member of the USC community is responsible for following all safety responsibilities established by Cal/OSHA or described in USC's Illness and Injury Prevention Program (IIPP), <https://policy.usc.edu/injury-prevention/>. Additional hazard-specific policies and requirements may apply to certain work and learning environments. These are described in the web pages of the USC Office of Research and Office of Environmental Health and Safety (EH&S).

PRINCIPLES

Responsibility for good health and safety practice begins with the supervisor in the workplace, laboratory or class, supported by their managers as well as safety specialists within Environmental Health and Safety. Specifically,

- All supervisors are responsible for the safety of their employee, student, and visitor charges, as described by relevant law, regulations, and policy.
- The role of EH&S is generally advisory: they provide safety training and guidance for supervisors, faculty, staff, students, and visitors; mandate training that is essential for promotion of safety; and inspect laboratories and workplaces to assure that environments are consistent with relevant regulations and best practices.

- Supervisors, including faculty, shall be evaluated as to their safety record, i.e. good faith cooperation and compliance in creating a safe work environment, which shall be considered in merit review, appointment, promotion, and tenure where applicable.
- Employees shall be evaluated as to their safety record, which shall be considered in merit review and promotion where appropriate.

RESPONSIBILITIES

Adherence to good health and safety practices and compliance with applicable health and safety regulations are a collective responsibility of all faculty, staff, and students, as well as visitors working within laboratories or shops. Specific responsibilities follow.

Director for Environmental Health and Safety (EH&S)

The Director of EH&S ensures overall institutional compliance with applicable policies, statutes, and regulations; monitors the effectiveness of safety programs; and provides central health and safety services, training, and support to all areas of the University. The Director is responsible for regular, periodic inspections to identify, evaluate, and correct workplace hazards and unsafe work practices, where frequency of inspections is determined according to the hazard present in the particular workplace.

The Director has the authority and responsibility to curtail or shut down any University activity that constitutes a clear danger to health or safety. The Director recommends University-wide health and safety policies to either the Senior Vice President for Administration or the President.

The Director must also ensure that the EH&S organization does the following.

- Reviews legislation, recommends policies, and monitors compliance with environmental health and safety statutes and regulations and University health and safety policies and programs;
- Develops institutional safety and compliance programs and assists schools, departments, faculty, and managers with implementation;
- Provides guidance and technical assistance to supervisors and managers in the schools, departments, and other work units to identify, evaluate, and correct health and safety hazards;
- Develops programs for the safe use of hazardous radiological, biological, chemical substances, and lasers;
- Provide training materials, assistance, and programs that regard safe work practices;
- Creates and promotes a culture of constructive, collaborative, and supportive interactions with faculty and students; and
- Works with University departments charged with primary responsibility for the design, construction, and/or renovation of facilities, to ensure that there is appropriate health and safety review of facility concepts, designs, and plans.

Vice Presidents, Directors, Chairs, Deans, and other Administrators

Senior administrators ensure that individuals under their management have the authority to implement appropriate health and safety policies, practices, and programs; areas under their management have adequate resources for health and safety programs, practices, and equipment; areas under their management are compliant with USC's health and safety policies, practices and programs; and employees in their organization are evaluated according to their safety records.

Physical infrastructure is a particular responsibility of certain administrators. For example, administration is responsible for the following.

- Workplaces, including laboratories, and equipment are maintained consistently with regulation and the guidance of EH&S.
- Compliance findings involving physical infrastructure shall be corrected promptly. Typically, this involves deficiencies in buildings and equipment purchased or controlled by the University.
- Workplaces or laboratories are compliant with USC's policies, programs, and practices.

Workplace and Laboratory Managers

Workplace managers (e.g. Principal Investigators (PIs), lab instructors, and lab/shop managers) are responsible for protecting the health and safety of employees, students, and visitors working under their direction or supervision, even when those persons are working outside of spaces controlled by their manager, which requires ensuring that:

- Employees, students, and visitors under their supervision or within their work areas have been provided with appropriate safety training and information and adhere to established safety practices, including provision and use of personal protective equipment;
- Employees, students, and visitors are informed about health and safety matters;
- Unsafe conditions are promptly reported to the next higher level of management and to the office of EH&S, as well as to workers who may be affected;
- Employees under their supervision participate in the medical surveillance program as applicable;
- Training occurs when
 - An employee is hired, or student or visitor is new to the laboratory or workplace;
 - An employee, student, or visitor is given a new assignment for which training has not previously been received;
 - New hazards are introduced by new substances, processes, or equipment; or
 - When there is a change in policy or best practice.
- Records are maintained to demonstrate compliance with regulations and standards, specifically
 - Safety meetings;
 - Reports of unsafe conditions or hazards;
 - Accident, injury, or illness investigation reports;
 - Scheduled and periodic workplace inspection records; and
 - Employee training records.
- Laboratory and shop equipment is maintained consistently with regulation and the guidance of EH&S, where the equipment's maintenance is the manager's responsibility. Typically, this regards equipment that was acquired by that manager or PI.
- Regarding PIs who manage shared equipment, the PI who acquired it is responsible to ensure that it is maintained appropriately, transferred to another manager, or disposed. The acquiring PI is responsible whether or not he/she is using the equipment. In the case of a core lab, the core director is responsible to ensure that the core's equipment has an appropriate custodian.

To fulfill these responsibilities, workplace managers must maintain current understanding of USC's health and safety policies, practices, and programs; cooperate with EH&S in any requested inspections (as if they were compliance investigations); and cooperate with any recommended corrections to remedy hazards.

Faculty, Staff, Students, and Visitors in Labs and Shops

Basic responsibilities applicable to all persons exposed to hazards in the laboratory include the following. These are the responsibilities of individual workers in labs and shops.

- Adhere to health and safety practices;
- Keep informed of conditions affecting their health and safety;
- Participate in safety training programs as required by USC policy or by their supervisors/instructors;
- Report to supervisors, instructors, or EH&S any potentially unsafe practice or immediate danger; and
- Communicate hazard information in areas where hazardous chemicals or physical agents are used or stored. This communication about hazards shall conform to the [Research Policies](#) for laboratory facilities and the [Hazard Communication Program](#) for all relevant workplaces.

HIGH-HAZARD CO-CURRICULAR COURSES AND EXTRA-CURRICULAR ACTIVITIES

USC has a special commitment to assuring student safety in high-hazard environments, which include

- Courses that are determined by EH&S to be bound by this policy. Typically, this will be courses that involve hazardous materials and have a “L” (laboratory) designation in the *USC Catalogue*.
- Student clubs and extra-curricular organizations that expose students to unusual risks, as identified by the Vice President for Student Affairs in consultation with EH&S.
- Workshop spaces available to students that present hazards, as determined by EH&S.

For these situations, a USC employee must be designated by a dean or vice president as the person responsible for assuring student safety. With resources provided by the dean or vice president, that employee is responsible for

- Proper supervision of students participating in activities.
- Student completion of USC General Laboratory Safety Training before commencing activities.
- Cognizance of the chain of responsibility in response to any hazard.

In the case of co-curricular courses, a qualified supervisor must be present, as supported by the responsible dean or vice president. The supervisor may be a teaching assistant, USC staff member, or faculty member knowledgeable in the activities of the course at the time of the course activity. If the immediate supervisor is a teaching assistant, there shall be a USC faculty or staff member present on campus available promptly to assume the supervisory roles of the teaching assistant if needed.

In the case of student clubs, a qualified supervisor must work with the club and EH&S to develop a standard operating procedure for any club activities involving any laboratory or shop work that will take place when the qualified supervisor is not present. A copy of any such standard operating procedures shall be made available to the cognizant dean or vice president.

In the case of co-curricular field trips, the instructor of record for the course is responsible for arranging appropriate laboratory or shop safety training and equipment, if relevant as advised by EH&S, with resources provided by the appropriate dean.

All USC persons engaged in field research should utilize the EH&S Field Research Safety Plan and enforce their plan while in the field.

ENFORCEMENT

USC’s Reporting Wrongdoing policy requires all members of the USC community to report suspected violations of this policy. Such violations may be reported to one’s workplace supervisor or to EH&S through the “report a safety concern” portal.

If a individual USC community member fails to carry out any responsibility delimited by this policy, this will be understood to be a form of professional misconduct. The violation should be reported to the Office of Professionalism and Ethics (OPE). OPE will determine if the misconduct rises to the level of sanctioning, and if so, refer it to the appropriate sanctioning body, e.g. the Committee on Professional Responsibility, Human Resources Administration, or SJACS.

If an administrative unit of the University fails to carry out any responsibility delimited by this policy, it is the responsibility of the Office of the Provost or Office of the President, whichever has responsibility, to ensure swift correction. Faculty, staff, or students that are dissatisfied with the resulting administrative action may seek redress through their appropriate grievance process.

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RESEARCH PERSONNEL PROTECTION POLICY

Safety is a core value at USC. The University is committed to advancement of an institutional safety culture, with strong programs of personal safety, accident and injury prevention, and compliance with applicable environmental and health and safety laws and regulations.

USC commits to making all reasonable efforts to

- Promote occupational and personal health and safety;
- Protect the health and safety of USC students, faculty, staff, and visitors;
- Provide information to faculty, staff, students, and visitors about health and safety hazards;
- Identify and correct health and safety hazards and encourage reporting of potential hazards; and
- Conduct activities in a manner that protects the environment of our workplaces.

Everyone at USC is expected to perform work safely, regardless of their position in the University. For employees, safety is an expectation and, where appropriate, part of their evaluation. Managers and supervisors are further responsible for the safety of the people under their supervision. They are expected to establish and maintain a system of training, positive reinforcement, and escalated discipline to support good health and safety practices.

SCOPE

This policy defines the responsibilities of faculty, staff, students, and visitors toward making USC a safe place to perform work, study, and conduct research. The policy applies to all USC faculty, staff, students, and unpaid visitors working within USC laboratories, USC-owned or -leased sites, and USC-controlled remote field locations, with these exceptions:

- Children's Hospital of Los Angeles, which is responsible for safety in its own facilities;
- LA County Department of Health Services-owned hospitals and clinics, for which the county is responsible;
- Student activities outside of USC owned or leased facilities, when such activities are not directed by a USC faculty or staff member.

In addition to this policy, each member of the USC community is responsible for following all safety responsibilities established by Cal/OSHA or described in USC's Illness and Injury Prevention Program (IIPP), <https://policy.usc.edu/injury-prevention/>. Additional hazard-specific policies and requirements may apply to certain work and learning environments. These are described in the web pages of the USC Office of Research and Office of Environmental Health and Safety (EH&S).

Nothing in this policy shall be construed in a manner inconsistent with existing legal and policy requirements, including but not limited to requirements in federal regulations, medical board regulations, or other applicable laws or regulations.

PRINCIPLES

Responsibility for good health and safety practice begins with the supervisor in the workplace, laboratory or class, supported by their managers as well as safety specialists within Environmental Health and Safety (EH&S). Specifically,

- All supervisors are responsible for taking all reasonable precautions to ensure the safety of their employee, student, and visitor charges, as described by relevant law, regulations, and policy.

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- The role of EH&S is generally to provide oversight: they provide safety training and guidance for supervisors, faculty, staff, students, and visitors; mandate training that is essential for promotion of safety; and inspect laboratories and workplaces to assure that environments are consistent with relevant regulations and best practices.
- Supervisors, including faculty, shall be evaluated as to their safety record, i.e. good faith cooperation and compliance in creating a safe work environment, which shall be considered in merit review, appointment, promotion, and tenure where applicable.
- Employees shall be evaluated as to their safety record, which shall be considered in merit review and promotion where appropriate.

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RESPONSIBILITIES

Adherence to good health and safety practices and compliance with applicable health and safety regulations are a collective responsibility of all faculty, staff, and students, as well as visitors working within laboratories or shops. Specific responsibilities follow.

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management are compliant with USC's health and safety policies, practices and programs; and employees in their organization are evaluated according to their safety records.

Physical infrastructure is a particular responsibility of certain administrators, including but not limited to the Facilities Management Services (FMS) and certain school units that manage buildings and other physical infrastructure. For example, these administrative units are generally responsible for the following.

- Workplaces, including laboratories, and equipment are maintained consistently with regulation and the guidance of EH&S.
- Compliance findings involving physical infrastructure shall be corrected promptly. Typically, this involves deficiencies in buildings and equipment purchased or controlled by the University.
- Helping to ensure that all workplaces and laboratories are compliant with USC's policies, programs, and practices.

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ENFORCEMENT

USC's Reporting Wrongdoing policy requires all members of the USC community to report suspected violations of this policy. Such violations may be reported to one's workplace supervisor or to EH&S through the ["report a safety concern"](#) portal.

If [an](#) individual USC community member [seriously or repeatedly](#) fails to carry out any responsibility delimited by this policy, this [is conduct in violation of university policy](#). The violation should be reported to the [Vice President of Research, who in consultation with appropriate safety committees where appropriate, will determine if a serious or repeated violation of university policy occurred. If the Vice President of Research determines that such a violation occurred, the matter will be referred](#) to the appropriate sanctioning body, e.g. the Committee on Professional Responsibility, Human Resources Administration, or SIACS, [to determine the appropriate sanction](#).

If an administrative unit of the University [\(e.g., FMS or a school unit that manages physical infrastructure and resources\)](#) fails to carry out any responsibility delimited by this policy, it is the responsibility of the [Senior Vice President of Administration or the Office of the Provost, whichever has responsibility for the involved administrative unit](#), to ensure swift correction. Faculty, staff, or students that are dissatisfied with the resulting administrative action [should immediately report the problem to the EH&S and the Vice President for Research](#).

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PLAYBOOK FOR ENCOURAGING A COOPERATIVE ENVIRONMENT IN COMPLIANCE CULTURE

This year's University Research Committee was tasked, among other things, with developing a strategy to **move our culture from *compliance* to *cooperation* in service of our external mandates**. The original impetus for this topic was emerging pressure that the University is receiving from the federal government regarding international relationships; to respond to federal inquiries, the University needs to educate, communicate, and cooperate with faculty in all aspects of ensuring research compliance. Thus, the faculty of the University Research Committee met with representatives of several University offices and opened channels of communication between those offices and committee members from various schools and departments. The objective of these meetings was to identify areas of concern in the evolving federal landscape, gaps in faculty awareness of the new landscape, and failures in communication between those offices and the faculty. These meetings generated a suite of ideas that could move the University closer to our objective. These are our recommendations.

FACULTY-ADMINISTRATIVE RELATIONSHIPS

Increasing faculty's trust for administration

There is a general perception by faculty that there is a disconnect between stated goals of the University to promote and support exceptional, world-class research scholars and students, and the actual support that is provided. A recurring theme that the Committee discovered was a lack of clarity, guidance, and support for managing compliance efforts and risks. Critically, we observe the perception that the effort to navigate these landscapes is being placed on faculty who are (and should be) primarily tasked with teaching and research activities.

Our present effort to improve the culture seeks to build strong relationships of trust between faculty and University offices engaged in compliance efforts: effective partnerships involving all key parties must be enacted to ensure significant progress and culture change. Building trust is only possible if the University brings to this relationship a genuine effort to ensure that the University will do everything in its capacity to educate faculty, inform, support, and guide us so that we have the best information to enable us to spend our time generating new knowledge rather than worrying about legal liability and negative publicity. Faculty want to believe that the University is here for us so we can succeed in the research mission of our University.

Yet, many faculty have as yet had little outreach, or positive reports from others, from the University offices involved in compliance. That is a problem for the function of those offices, that are tasked with helping faculty navigate the complex and evolving legal landscape associated with safely conducting their research, maintaining obligations to funders, and ensuring all activities stay within the law - in so doing protecting individual faculty from sanctions for non-compliance (even jail time). We see a need to improve the culture.

Successful 2-Way Education and Communication with Faculty

Central offices that are tasked with engaging faculty to help them pursue compliance at the University will only succeed if they understand the types of research activity they monitor. Such understanding is spotty across disciplinary activities, with successes in patent IP; chemical, radiation, and bio-safety; and conflict of interest. Academic departments can provide examples for each type of scholarship – data, media, methods, and materials – to offices like the Stevens Center for Innovation, Environmental Health and Safety (EHS), the Office of Culture, Ethics, and Compliance (OCEC), and the Office of Research so they can determine appropriate legal and regulatory frameworks for each. These offices should then work with the departments to develop best practices appropriate to the nature of their scholarly research activities. Partnerships are needed in this process of gaining understanding. We think department chairs should be charged with starting dialogs with the respective pieces of the University's compliance infrastructure.

OFFICE OF CULTURE, ETHICS, AND COMPLIANCE

OCEC should have a standing faculty advisory committee.

We observe that the USC Stevens Center and USC EHS have created constructive relationships respectively with the Stevens Faculty Advisory Committee (FAC) and RSOC (Research Safety Oversight Committee and its associated subcommittees). One function of these groups has been to liaise administration and faculty, and the respective administrators tell us that this is a useful tool for them.

We recommend that the VP of Ethics and Compliance should have broad latitude to set her/his FAC's agenda with input from the FAC chair, free of constraints from other administration, although we advise that this should be done cooperatively with a substantially independent committee chair. We recommend that this committee should have staff representation from EHS, the Department of Contracts and Grants (DCG), the Stevens Center, and other key stakeholders of OCEC. The FAC should comprise faculty representing all areas of scholarship, including social sciences, humanities, and life sciences.

The academic senate should be involved in constructing this committee's charge, and it should involve developing a shared set of principles for OCEC that define how we see ourselves as an organization.

Orienting staff in the OCEC to be faculty-engaging (customer-facing will enable foreseeable progress in culture change.

We observe that the years from 2014 to 2017 the EHS underwent a substantial cultural change from compliance to cooperation. As we analyze that change with EHS and Office of Compliance leadership, we find that EHS's investment in lab safety inspectors who were tasked with liaising, educating, and *engaging faculty in a one-on-one environment* was one of their most effective strategies. We also find that the direct engagement of EHS senior leadership with faculty, faculty committees, and departments was a key strategy. We think that these strategies can also work for OCEC. We appreciate the vision of the Office of Compliance as a "client service organization" and recommend that it might publicize a "service commitment" like the Stevens Center.

OCEC should regularly submit agenda items to standing University committees and faculty groups that have shared interest in compliance culture.

Part of EHS's success has been direct faculty engagement. We recommend that OCEC ask for agenda time in as many departmental and school faculty meetings as possible as it establishes its client service model, because this model will need to be introduced to faculty. We recommend that it should engage faculty one-on-one as EHS did, probably prioritizing its work through its conflicts of interest (Col) database and its FAC. Such interactions should probably include a personalized consultation to understand and plan what each faculty member should be doing about IP, Col, and related disclosures.

While we realize that faculty meeting participation can be low, we recommend that other faculty forums might also be useful. Particularly, we recommend that the chairs of certain University-level committees should be encouraged regularly to engage a presentation from OCEC. Particular affected committees include the University Research Committee, the Research

Safety Oversight Committee, the research deans meeting(s), the Stevens FAC, USC Campus Climate Committee, and possibly others.

We recommend that OCEC and the Stevens Center will draw more participation in faculty meeting if they approach these with specific, topical trainings regarding commercial/commercializable research, disclosures relating to publishing, rules of data deposition, IP concerns regarding code/software, and aspects of collaborations (sharing data, samples and international collaborations).

OCEC should continue its ongoing effort to streamline and report University Policy.

The Committee's work this year has been substantially hampered by broken and inaccurate links in the University's Policy web assets and by unresponsiveness from the administration toward the end of repairing these assets or answering questions regarding existing policy that we were tasked with modernizing. We have learned that OCEC is currently working to resolve these issues, and we underscore the importance of this effort and the transparency that it will produce.

The Committee identified a number of compliance-related cases in which workflow for particular compliance-related questions and problems was not obvious, and faculty and staff were left to wonder which office of the University should be responsible. This resulted in a "not my problem" response from an administrative office that left faculty abandoned in the pursuit of answers. This affects our ability to achieve compliance. This must be avoided as OCEC organizes and unifies the University's compliance infrastructure.

Policy should be created to manage faculty involvement in foreign "talent programs" and foreign research institutes.

The Committee and the Offices of Compliance and Research are increasingly concerned by programs that solicit US academics to participate as visiting faculty in foreign countries and offer compensation that can, in some cases, exceed a faculty member's available effort commitment. We think many faculty do not understand that they have limits on outside consulting effort commitment.

We find that the Office of Research and OCEC are largely unaware of the role of the Office of Strategic Global Initiatives in the compliance space. We learned this by asking for experts in the space and were unable to get a referral to OSGI. We encourage greater cross talk and clarification of respective mandates among OSGI, the Office of Research, OCEC, and the various compliance stakeholders.

The Committee underscores the University's real and apparent commitment to foster and enable international collaboration in all aspects of research and scholarship. We support sentiment brought before the Committee by administration to make an explicit statement that international collaboration is a key cultural part of our University's role as a global leader in research, scholarship, and education. There is a very wide diversity of international relationships that must be accommodated by any particular policy on IP, compliance, or any other aspect of research, so it could be useful to have an overarching statement to guide us as we grow.

We understand that some faculty contracts might be constructed in a way that specifically encourages creation of research institutes in foreign countries and that this has the

potential to setup scenarios where it may be challenging to ensure compliance, for example there may be different regulatory environments in other countries with respect to research integrity (e.g. human rights) and may result in dual claims of intellectual property ownerships, or may setup situations where USC-generated intellectual property may not be disclosed to the University. The Committee notes the existence of faculty contracts that enable faculty to spend a portion of effort outside of their USC-related activities that exceeds the guidelines in the Faculty Handbook. We support the piece of the USC Conflict of Interest policy that says that outside activity can't be "inconsistent with a faculty member's responsibilities to USC," which could happen in external research institutes. While our federal regulatory environment is becoming more restrictive, the Committee continues to highlight the importance of enabling productive international relationships that are properly managed and urges a USC-based discussion of these international linkages.

The Committee sees that many, if not most, research active faculty send and receive research data and materials as matters of professional courtesy for the betterment of our disciplines. These activities must continue, yet some aspects of international collaboration may increasingly fall under federal scrutiny. This may create problems for faculty and the University. We recommend revisiting and adapting the existing Material Transfer Agreement process provided by the USC Stevens Center to accommodate easy exchange of research samples, and we see that this change is underway.

We recommend that new USC policy might be needed in this general area, but faculty would need expert counsel to write such policy, so we do not believe that the policy should be faculty-initiated, although it must be faculty-advised. Faculty input must come broadly from all schools and should be overseen by the Senate.

University policy creation mechanisms must be transparent.

Both the Committee and the Office of Compliance have been hindered this year in enacting and revising University policy required by law. There must be a functional process for creating and vetting University policy, and the process must have a custodian. Individuals should not be allowed to block or modify the policy creation process *ex parte*, which has been a problem for us this year.

INTELLECTUAL PROPERTY

Scope of the Stevens Center

Because of changes in our federal regulatory environment, faculty in disciplines that traditionally do not have patentable products, and thus no history of engagement with Stevens, may need services from them. This comes from increasing federal pressure for disclosure compliance. Such IP includes software, like a profitable mobile application; and “Ed-Tech”, like courseware for the expanding for-profit education sector. This could mean that scholars in areas such as education, social science, humanities, and professional training may be generating IP that is subject to disclosure. These additional compliance requirements do not change the position laid out in the IP Policy, “The University does not claim an ownership interest in faculty-authored textbooks or scholarly publications, art works, musical compositions, or literary works, whether or not related to the professional fields of the faculty members and regardless of the medium of expression, unless the work is subject to contractual restrictions.”

Stevens has been rightly focused on IP policy regarding products that have revenue potential. Federal landscapes and international agreements are changing toward a point where other IP work products that have hardly been subject to government regulation will need similarly careful management: faculty must be educated about these changes, to ensure that faculty do not run into problems with their University contracts or federal law. We need to advocate for the need for intellectual free trade of ideas and fight disinformation that constrict the flows of ideas, materials, and data that do comply with law.

University IP policy must contemplate breadth of research.

There is a need explicitly to recognize the breadth of research that takes place across the University, and to recognize the need for all policies to be sufficiently flexible to accommodate this. Current IP policies are focused on patents and fail to address other forms of IP. Software and copyrights are examples of this that Stevens is working to engage better.

The Committee observed after our interview with Stevens leadership that they have begun a significant overhaul the IP disclosure process to respond to this criticism. We have also observed that the Senate struck proposed language from a Faculty Handbook amendment that would have declared that certain types of IP need not be disclosed. This seems wise, since it seems that an expansion of disclosure is needed, not a reduction, consistent with the Senate decision.

OCEC, DCG, and the USC Stevens Center have apparent overlap in missions, and this should be clarified.

The Committee observes that there are elements of the USC Stevens Center Service Commitment and the responsibilities of the OCEC and DCG that overlap. Particularly, we find that there is potential overlap in the areas of Material Transfer Agreements and CDAs/NDAs (confidential non-disclosure agreements). This has particularly important compliance implications that regard international MTAs and the illegal export of USC patent IP to foreign research institutes. We encourage OCEC and the Office of Research to optimize these workflows.

The CET has been successful engaging departments in Zoom teaching. These tactics are generalizable.

Staff from the Center for Excellence in Teaching were able to get meeting time with many departments to train faculty in teaching tactics using Zoom. In fact, zoom teaching itself has been useful for them in this regard. While this process was motivated by the COVID-19 lockdown, it still shows that an administrative office can get access to well-attended faculty meetings. Some of the CET's tactics can be used by our compliance infrastructure: come with valuable and timely information, present useful resources, offer follow-up coaching, etc.

Faculty IP disclosures lag far behind R&D spending

We notice that while our peers like TSRI or Caltech receive about 1 IP disclosure from faculty for every \$1M in annual research expenditures, USC sees less than 1/3 of that level of disclosure. Although the research profiles of Caltech and USC are distinct, there is a concern at the University that the difference may indicate underreporting of IP by faculty. We observe that the Stevens leadership has tried several approaches to educate faculty recently, but these have not gained traction. The Stevens Center reports that IP disclosures *decreased* when the Office of Research implemented a mandatory training to inform faculty of the 2018 NIST revision that *increased* Bayh-Dole reporting mandates for academic investigators.

We find that the history of the Stevens Center has left a contentious relationship between the Center and many faculty members, which appears to be an underlying cause for poor compliance. We are unable to determine to what extent prior (as opposed to current) Stevens staff or USC administration might have contributed to this environment, but we note unusually high turnover in both.

Many steps can be taken to educate stakeholders on IP disclosure compliance.

The University is under increasing federal pressure to increase IP disclosure compliance, but that pressure does not need to be transferred onto faculty in a prosecutorial manner. Instead an education campaign is needed – to educate those who understand the federal landscape about the research activities at USC and to educate the faculty about the changing landscape. If this transfer of information occurs then the faculty and offices of compliance can work together efficiently to remain within the bounds of the law, as most faculty wish to focus on their research within the bounds of the law.

The Office of Research reports that there are a few faculty in the University who are persistent violators. We agree with the Office's philosophy to aid the Government in prosecution of bad actors. In the past, the University has been criticized for action that appeared to protect, hiding, or compensate known, persistent wrongdoers. We perceive our role as advocating for the University offices to serve the vast majority of faculty who want to do great scholarship and do it well.

The Committee encourages all of the schools and the Office of Research to compel the inclusion of ethical training on the Bayh-Dole act in all RCR courses taught on campus, as we see in our aspirational peers. Caltech stands out in this regard. The Stevens Center is enthusiastic to aid in the development of curriculum for this project. The Office of Research is highly enthusiastic to deliver such training to faculty and has already acted on this suggestion. We

understand that implementation of this suggestion is underway, and we are hopeful that it will not be blocked by schools and individual instructors as it was in the past.

The Committee encourages the VP of Human Resources to include leadership of the Stevens Center in the onboarding of new faculty and postdoctoral fellows. We recommend that the Stevens staff should be steered to making this a training and meet-and-greet activity so that new research personnel of all disciplines will understand their IP disclosure obligations and the mechanisms to discharge them.

The Committee sees a convenient opportunity for administrative offices to learn faculty interests by reviewing faculty annual activity reports. Moreover, we perceive that OCEC and the Stevens center might provide schools with guidance on how annual merit review report forms can be optimized to bring out points that might prompt consultations from OCEC or Stevens. For example, there might be checkboxes next to certain work products (like papers) that ask, "Does this include patentable IP?" or "Did institutions other than USC participate in this work?" Designing these questions will be delicate and should involve faculty feedback.

In summary, we recommend the following new tactics that the Stevens Center might use for faculty education:

- *1 : 1 Faculty Consultations*. We think these will work best if the consulting licensing associate is enabled with background data such as the faculty member's recent CV or annual merit report. We see that such meetings are currently underway (5 years now) with patent-relevant research areas. Many of these are faculty-initiated. We recommend that Stevens might initiate these and plan to engage all faculty, including those with no patent stake, to discuss non-patentable IP. We expect that such an effort might happen over a period of years, with Stevens leadership prioritizing appropriate departments.

- *Targeted presentations at faculty meetings with department-specific examples*. We perceive that many departments will welcome such visits.

- *FactSheets*. EHS uses colorful and informative "FactSheets" and "GuideSheets" to educate researchers on points of safety law and best practice. They use the lab inspection process to ensure that appropriate sheets are posted in every laboratory. We recommend that Stevens should have appropriate FactSheets posted in laboratories, shops, and studios around the campuses where IP is generated. The Stevens FAC should help focus these toward the particular IP needs of the respective scholarly communities to keep them relevant.

- *Training Sessions*. While the Stevens leadership has worked hard to provide training to faculty, few have participated. We recommend that these sessions should be focused at new graduate students and postdocs who might have more bandwidth and interest to understand IP law. We anticipate that students might pressure faculty to disclose IP or disclose it themselves.

- *RCR Courses*. We applaud the Office of Research for beginning to mandate the inclusion of IP law and ethics in all USC Responsible Conduct of Research courses.

- *Liaise DCG*. We suspect that the Stevens Center might be able to identify possible IP before it is created by reviewing abstracts of funded research proposals approved through DCG. We believe that they are already engaged in this to some extent but are resource-limited such that they are unable to do this to the extent that they would like. We think there might be a way to include checkboxes in the grant submission process to ask if IP is likely to be generated or disclosable international relationships are likely. The Office of Research is pursuing this plan.

- *Liaise school/department research departments.* We suspect that proposal preparers in schools and departments might be valuable resources for Stevens staff as they endeavor to understand better possible IP generated by faculty and research. We recommend that Stevens staff ask school research offices for briefings on IP activities within the schools.
- *Onboard Faculty.* Among the Committee we find widely varied experiences in IP orientation in our faculty onboarding experiences, from good to none. Stevens leadership is enthusiastic to meet with new faculty, and we recommend that this might be integrated into the faculty onboarding process.

Faculty are generally unaware of “extraordinary” IP agreements.

Stevens leadership points out that most faculty that apply for grants from foundations and philanthropies are unaware that the terms of these grants might require that all IP from the project revert to the sponsor. The Committee strongly agrees with the University’s position to aid faculty in securing this type of funding. We note that the Stevens FAC has taken up the issue of educating faculty on hidden IP rules, however most faculty remain generally unaware.

We can expect more from the Stevens FAC

The Committee finds several opportunities to strengthen the relationship between Stevens and its FAC. For example

- FAC members could be more effective as cultural advocates for USC IP policy.
- FAC members rarely advance agenda items to Stevens leadership. We would like to see more of this, rather than seeing IP policy proposals going to the Senate. This is important, because we see that the best chance of steering or reforming the Stevens center is to have proposals that are vetted through faculty who understand IP policy, the Stevens leadership, and the concerns of faculty.
- We note that FAC meetings have historically been driven by the VP of Research and the Stevens leadership, for example, these meetings have taken place at the ATT center. We recommend greater faculty leadership in the FAC and relocation of the meetings to the UPC and HSC.

IP is generally not considered in faculty merit review, promotion, or tenure

We observe that UCAPT and many schools see IP and IP compliance as irrelevant to faculty merit. We recommend that this policy should be reviewed by the Senate. We know that IP does not figure into the merit of most of our faculty. Still, it can be a very important part of the merit and impact of the work of some. UCAPT should have the prerogative to view technology transfer impact favorably.

A comprehensive process must be in place to verify offer letters

The Committee finds vast inconsistency in the presence and absence of key terms in faculty offer letters that regard such essential elements of policy as faculty effort commitment disclosure, IP ownership and assignment, safety responsibilities, etc. For example, we find that 2 members of the Committee who were hired into the same academic unit in the same year had vastly different offer letters, one completely omitting the IP policy. This must be corrected immediately.

This same problem exists with many graduate students and postdoctoral fellows.

These ideas were developed by the 2019-2020 USC University Research Committee

Travis J. Williams (Dornsife College), Chair

Shafiqah Ahmadi (Rossier School of Education), Academic Senate Liaison

Francois Bar (Annenberg School of Communication and Journalism), April-May

Sarah Feakins (Dornsife College)

Laura Ferguson (Keck School of Medicine)

Gen Giuliano (Price School of Public Policy)

Sarah Gualtieri (Dornsife College), May

Mary Lawlor (Ostrow School of Dentistry)

Naomi Levine (Dornsife College)

Noah Malmstadt (Viterbi School of Engineering)

Krishna Nayak (Viterbi School of Engineering)

Silvia Da Costa (ex officio, Office of Research)

Kristen Grace (ex officio, Office of Research)

Subject matter experts interviewed in the development of this whitepaper

Randolph Hall, Former Vice President of Research

Maja Mataric, Interim Vice President of Research

Deona Willes, Director, Office of Environmental Health and Safety

Dick Sun, Deputy Director, Office of Environmental Health and Safety

Daniel K Shapiro, Director, USC Office of Compliance

Jennifer Dyer, Executive Director, USC Stevens Center for Innovation

Michael Arciero, Director of Licensing and New Ventures, USC Stevens Center for Innovation