POLICY ON RESPONSIBLE CONDUCT OF RESEARCH
PROCEDURES FOR RESPONDING TO ALLEGATIONS OF RESEARCH MISCONDUCT

1. PURPOSE

The Public Health Service and National Science Foundation require recipients of grants to have policies and procedures on scientific misconduct in place to both uncover acts of research fraud and examine allegations of misconduct in the conduct of research. The University adopts the following policies and procedures regarding the responsible conduct of research in all fields throughout the University.

The University has established a procedure to review allegations of research misconduct. The principles associated with Binghamton's policy and procedures are as follows:

- The University shall treat all parties with justice and fairness and shall be sensitive to each person's reputation and responsibilities.
- Procedures shall preserve the highest attainable degree of confidentiality compatible with an effective investigation response.
- Procedures shall be as expeditious as possible in leading to the resolution of the charges in a timely manner.
- The integrity of the process shall be maintained by carefully avoiding any real or apparent conflict of interest.

This policy and procedures therein are intended to conform to the requirements of the United States Department of Health and Human Services (HHS), the U.S. Public Health Service (PHS), the National Science Foundation (NSF), and Federal regulations including, but not limited to, the "Public Health Service Policies on Research Misconduct" [42 Code of Federal Regulations (CFR) 93] and the policies of the National Science Foundation [45 CFR, Part 689], and thus are referenced where applicable.

2. SCOPE

This policy applies to research conducted under an externally funded sponsored project that is awarded to the Binghamton University Research Foundation, internally funded research, and unfunded research conducted by faculty, staff, or students working under the supervision of faculty and/or staff. Any individual working on or contributing to such a project, whether for monetary compensation or not, is covered by this policy.

The scope of this policy includes any research proposed, performed, reviewed or reported, or any research record generated from that research, regardless of whether an application or proposal for external or internal funds resulted in an award. It applies only to Allegations of Research Misconduct that occurred within six (6) years of the date the University or the sponsor received the Allegation, subject to the subsequent use, health and safety of the public, and grandfather exceptions in 42 CFR 93.105(b).The Vice President for Research (VPR) has primary responsibility for overseeing research integrity, and shall appoint a Research Integrity Officer (RIO), who will be primarily responsible for the correct observance of the procedures set forth. Reports of misconduct shall be handled in a four-stage process:

- An inquiry to determine whether the allegation or related issue warrants further investigation;
- When warranted, an investigation to collect and examine all pertinent evidence;

- A formal finding on the allegation; and
- Appropriate administrative action on the matter.

3. DEFINITIONS

Allegation: A disclosure of possible Research Misconduct through any means of communication. The disclosure may be by written or oral statement or other communications to the University, University Research Foundation, or HHS official.

Complainant: A person who in good faith makes an Allegation of Research Misconduct.

Conflict of Interest: The actual or apparent interference of one person's interests with the interests of another person or entity, where potential bias may occur due to prior or existing personal or professional relationships.

Evidence: Any document, tangible item, or testimony offered or obtained during a Research Misconduct proceeding that tends to prove or disprove the existence of an alleged fact.

Fabrication: The recording or reporting of invented or forged data or results with intent to deceive.

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

Good Faith as applied to a Complainant or witness: Having a belief in the truth of one's Allegation or testimony that a reasonable person in the Complainant's or witness's position could have, based on the information known to the Complainant or witness at the time. An Allegation or cooperation with a Research Misconduct proceeding is not in good faith if it is made with knowing or reckless disregard for information that would negate the Allegation or testimony. Good faith as applied to a committee member means cooperating with the purpose of helping the University meet its responsibilities under any applicable federal regulations and this policy. A committee member does not act in good faith if his/her acts or omissions on the committee are dishonest or influenced by personal, professional, or financial conflicts of interest with those involved in the Research Misconduct proceedings.

Inquiry: Preliminary information-gathering and preliminary fact-finding that meets the criteria and follows the procedures set forth in federal regulations.

Investigation: The formal development of a factual record and the examination of that record leading to a decision not to make a finding of Research Misconduct or to a recommendation for a finding of Research Misconduct which may include a recommendation for other appropriate actions, including administrative actions.

Office of Research Integrity (ORI): The federal office to which the HHS Secretary has delegated responsibility for addressing research integrity and misconduct issues related to PHS supported activities.

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

Preponderance of the evidence: Proof by information that, compared with that opposing it, leads to the

conclusion that the fact at issue is more probably true than not.

Research: A systematic experiment, study, evaluation, demonstration or survey designed to develop or contribute to general knowledge (basic research) or specific knowledge (applied research) relating broadly to a particular discipline or subject by establishing, discovering, developing, elucidating or confirming information about the discipline or subject of the research.

Research Integrity Officer (RIO): The RIO is responsible for: (1) assessing Allegations of Research Misconduct to determine if they fall within the definition of Research Misconduct, are covered by federal regulations, and warrant an Inquiry on the basis that the Allegation is sufficiently credible and specific so that potential evidence of Research Misconduct may be identified; and (2) overseeing Inquiries and Investigations; and (3) the other responsibilities described in this policy. The RIO is the Assistant Vice President for Research Compliance.

Research Misconduct: Fabrication, falsification, or plagiarism or other practices in the conduct of research, scholarly, or creative activity that seriously deviate from those that are commonly accepted within the academic community for proposing, performing, or reviewing research, or in reporting research results. Misconduct in research does not include honest error or differences of opinion.

Research record: The record of data or results that embody the facts resulting from scientific or scholarly inquiry, including but not limited to research proposals, laboratory records, both physical and electronic progress reports, abstracts, theses, oral presentations, internal reports, journal articles, and any documents and materials provided to a federal agency or University official by a Respondent(s) in the course of the Research Misconduct proceeding.

Respondent(s): The person against whom an Allegation of Research Misconduct is directed or who is the subject of a Research Misconduct proceeding. There can be more than one Respondent in any Inquiry or Investigation.

Retaliation: An adverse action taken against a Complainant or witness in response to: (1) a good faith Allegation of Research Misconduct; or (2) good faith cooperation with a Research Misconduct proceeding.

Vice President for Research (VPR): This person is the Deciding Official responsible for making the final decision on Allegations of Research Misconduct. The Vice President for Research should have no direct prior involvement in the University's Inquiry, Investigation, or Allegation assessment. A VPR's appointment of an individual to assess Allegations of Research Misconduct, or to serve on an Inquiry Committee, shall not be considered direct prior involvement.

4. RIGHTS AND RESPONSIBILITIES

4.1. Research Integrity Officer (RIO)

The Assistant Vice President for Research Compliance shall serve as the RIO and have primary responsibility for the facilitation of this policy and procedures. The RIO's responsibilities include the following duties related to Research Misconduct proceedings:

4.1.1. Consult confidentially with persons uncertain about whether to submit an Allegation of

Research Misconduct;

4.1.2. Receive Allegations of Research Misconduct either in writing or orally;

4.1.3. Assess each Allegation of Research Misconduct in accordance with this policy to determine whether it falls within the definition of Research Misconduct and warrants an Inquiry;

4.1.4. As necessary, take interim action and notify ORI of special circumstances, in accordance with this policy;

4.1.5. Sequester research data and evidence pertinent to the Allegation of Research Misconduct in accordance with this policy and maintain it securely in accordance with this policy and applicable law and regulation;

4.1.6. Provide confidentiality to those involved in the Research Misconduct proceeding as required by 42 CFR 93.108, other applicable law, and institutional policy;

4.1.7. Notify the Respondent(s) and provide opportunities for him/her to review/comment/respond to Allegations, evidence, and committee reports in accordance with this policy;

4.1.8. Inform Respondent(s), Complainants, and witnesses of the procedural steps in the Research Misconduct proceeding;

4.1.9. Appoint the Inquiry Committee, ensuring that the Committee is properly staffed and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence (6.4);

4.1.10. Determine whether each person involved in handling an Allegation of Research Misconduct has an unresolved personal, professional, or financial conflict of interest and take appropriate action, including recusal, to ensure that no person with such conflict is involved in the Research Misconduct proceeding;

4.1.11. Keep the VPR and others who need to know apprised of the progress of the review of the Allegation of Research Misconduct;

4.1.12. Notify and make reports to ORI as required by 42 CFR Part 93 or any other relevant federal regulations and/or notify and make reports to the appropriate regulatory agency or sponsors as required by regulations and this policy;

4.1.13. Ensure that administrative actions taken by the University and ORI are enforced and take appropriate action to notify other involved parties, such as sponsors, law enforcement agencies, professional societies, and licensing boards of those actions; and

4.1.14. Maintain records of the Research Misconduct proceeding and make them available to ORI in accordance with this policy.

4.2. Complainant

The Complainant is responsible for making Allegations in good faith and cooperating with the Inquiry and Investigation. As a matter of good practice, the Complainant should be interviewed at the Inquiry stage and given the typed notes, or recording of the interview for correction. The Complainant must be interviewed during an Investigation, and be given the typed notes or recordings of the interview for correction.

4.3. Respondent(s)

The Respondent(s) is responsible for cooperating with the conduct of an Inquiry and Investigation. The Respondent(s) should be given the opportunity to admit that Research Misconduct occurred and that he/she committed the Research Misconduct. Upon receipt of an admission, the RIO may notify VPR and/or other appropriate institutional officials. The VPR may terminate the institution's review of an Allegation that has been admitted, if the University's acceptance of the admission and any proposed settlement is approved by ORI.

The Respondent(s) is entitled to:

4.3.1. A good faith effort from the RIO to notify the Respondent(s) in writing at the time of or before beginning an Inquiry;

4.3.2. Be notified of the outcome of the Inquiry, and receive a copy of the Inquiry report that includes a copy of, or refers to 42 CFR Part 93 and the institution's policies and procedures on Research Misconduct;

4.3.3. An opportunity to comment on the Inquiry report and have his/her comments attached to the report;

4.3.4. Be notified in writing of the Allegations to be investigated within a reasonable time after the determination that an Investigation is warranted, but before the Investigation begins (within **30** days after the University decides to begin an Investigation), and be notified in writing of any new Allegations not addressed in the Inquiry or in the initial notice of Investigation within a reasonable time after the determination to pursue those Allegations;

4.3.5. Be interviewed during the Investigation, have the opportunity to correct the typed notes or recordings, and have the corrections included in the record of the Investigation;

4.3.6. Submit to the Committee a list of persons who may have relevant information and request that they be interviewed during the Investigation; have the typed notes or recording provided to the witness for correction, and have the corrections included in the record of Investigation; and

4.3.7. Receive a copy of the preliminary Investigation Report and, concurrently, a copy of, or supervised access to the evidence on which the report is based, and be notified that any comments must be submitted within thirty **(30)** days of the date on which the copy was received and that the comments will be considered by the University and addressed in

the final report.

4.4. Deciding Official

The Vice President for Research (VPR) serves as the Deciding Official. The VPR will receive the Inquiry Report and after consulting with the RIO and/or other institutional officials, decide whether an Investigation is warranted [under the criteria in 42 CFR 93.307(d)] where applicable. Any finding that an Investigation is warranted must be made in writing by the VPR and must be provided to ORI where applicable or the appropriate regulatory agency, together with a copy of the Inquiry report meeting the requirements of 42 CFR 93.309 where applicable, within thirty **(30)** days of the receipt of the report by the VPR. If an Investigation is warranted, the VPR will notify the Provost who will appoint the Investigation Committee, ensuring that Committee is properly staffed, and that there is expertise appropriate to carry out a thorough and authoritative evaluation of the evidence. The VPR shall ensure that the final Investigation Report, the findings of the VPR, and a description of any pending or completed administrative actions are provided to ORI, as required by 42 CFR 93.315 where applicable or the appropriate regulatory agency. If it is found that an Investigation is not warranted, the VPR and the RIO will ensure that detailed documentation of the Inquiry is retained for at least seven **(7)** years after termination of the Inquiry, so that ORI or the appropriate regulatory agency may assess the reasons why the institution decided not to conduct an Investigation.

The VPR will receive the Investigation Report and, after consulting with the RIO and/or other institutional officials, decide the extent to which this institution accepts the findings of the Investigation and, if Research Misconduct is found, decide what, if any, institutional administrative actions are appropriate.

5. GENERAL POLICIES AND PROCEDURES

5.1. Responsibility to Report Misconduct

All University members shall report observed, suspected, or apparent Research Misconduct to the RIO. If an individual is unsure whether a suspected incident falls within the definition of Research Misconduct, he or she may meet with or contact the RIO to discuss the suspected Research Misconduct informally, which may include discussing it anonymously and/or hypothetically. If the circumstances described by the individual do not meet the definition of Research Misconduct, the RIO may refer the individual or Allegation to other appropriate offices.

5.2. Cooperation with Research Misconduct Proceedings

University employees shall cooperate with the RIO and other University officials in the review of Allegations and the conduct of Inquiries and Investigations. University employees have an obligation to provide evidence relevant to Research Misconduct Allegations to the RIO or other University officials.

5.3. Confidentiality

The RIO shall (1) limit disclosure of the identity of the Respondent(s), Complainant(s) and witnesses to those who need to know in order to carry out a thorough, competent, objective and fair Research Misconduct Investigation consistent with applicable laws and regulations; and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be

identified to those who need to know in order to carry out a Research Misconduct Investigation.

5.4. Protecting Complainants, Witnesses, and Committee Members

University employees may not retaliate in any way against Complainants, witnesses, or committee members. University employees should immediately report any allegations of retaliation against Complainants, witnesses or committee members to the RIO, who shall review the matter and take appropriate corrective action.

5.5. Protecting the Respondent(s)

As requested and as appropriate, the RIO shall make reasonable and practical efforts to protect or restore the reputation of persons alleged to have engaged in Research Misconduct, but against whom no finding of Research Misconduct is made. During the Research Misconduct proceeding, the RIO is responsible for ensuring that Respondent(s) receive all the notices and opportunities provided for in federal regulations or the policies and procedures of the University.

5.6. Interim Administrative Actions and Notifying ORI of Special Circumstances

Throughout the Research Misconduct proceeding, the RIO will review the situation to determine if there is any threat of harm to public health, federal or other sponsor funds and equipment, or the integrity of the PHS or other sponsor supported research process. In the event of such a threat, the RIO will, in consultation with the VPR and ORI or other appropriate regulatory agencies and/or sponsor, take appropriate interim action to protect against any such threat. Interim action might include additional monitoring of the research process and the handling of federal/sponsor funds and equipment, reassignment of personnel or of the responsibility for the handling of federal/sponsor funds and equipment, additional review of research data and results or delaying publication. The RIO shall, in consultation with the VPR, at any time during a Research Misconduct proceeding, notify ORI or any other appropriate regulatory agency and/or other sponsor immediately if he/she has reason to believe that any of the following conditions exist:

5.6.1. Health or safety of the public is at risk, including an immediate need to protect human or animal subjects;

5.6.2. HHS or other sponsor resources or interests are threatened;

5.6.3. Research activities should be suspended;

5.6.4. There is a reasonable indication of possible violations of civil or criminal applicable law;

5.6.5. Federal action is required to protect the interests of those involved in the Research Misconduct Investigation;

5.6.6. The Research Misconduct Investigation findings may be made public prematurely and HHS action may be necessary to safeguard evidence and protect the rights of those involved; or

5.6.7. The research community or public should be informed.

5.7. Appeals

Respondent(s) have a right to appeal the decision. The appeal shall be in writing and should include a detailed statement of any disputed facts and any new defenses to the Allegations. Any additional relevant information may also be included in the appeal.

6. CONDUCTING THE ASSESSMENT AND INQUIRY

6.1. Assessment of Allegations

Upon receiving an Allegation of Research Misconduct, the RIO shall assess the Allegation to determine whether it is sufficiently credible and sufficiently specific, so that potential evidence of Research Misconduct may be identified, whether it is within the jurisdictional criteria of federal agencies, and whether the Allegation, if proven, would constitute Research Misconduct as defined in this policy and any applicable federal regulations. An Inquiry must be conducted if these criteria are met.
The assessment period should be completed within five (5) working days of receipt of the Allegation. In conducting the assessment, the RIO need not interview the Complainant(s), Respondent(s), or other witnesses, or gather data beyond that submitted with the Allegation, except as necessary to determine whether the Allegation is sufficiently credible and specific so that potential evidence of Research Misconduct may be identified. The RIO shall, on or before the date which the Respondent(s) is notified of the Allegation, obtain the evidence needed to conduct the Research Misconduct proceeding, as provided in the Notice to Respondent(s); Sequestration of Research Records section below.

6.2. Initiation of Purpose of Inquiry

If the RIO determines that the criteria for an Inquiry are met, the RIO shall initiate the Inquiry. The purpose of the Inquiry is to conduct an initial review of the available evidence to determine whether to conduct an Investigation. An Inquiry does not require a full review of all the evidence related to the Allegation.

6.3. Notice to Respondent(s); Sequestration of Research Records

Upon or before commencement of an Inquiry, the RIO must notify the Respondent by means of a written charge letter (45 CFR 93.202) that will include, but is not limited to, a written copy or summary of the Allegation and shall make available a copy of this policy and procedures. If the Inquiry subsequently identifies additional Respondents, they must be notified in writing. On or before the date on which the Respondent is notified, or the Inquiry begins, whichever is earlier, the RIO shall take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the Research Misconduct Inquiry, inventory the records and evidence and sequester them in a secure manner, except that 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. The RIO may consult with the appropriate regulatory agency for advice and assistance in this regard.

6.4. Appointment of Inquiry Committee

The RIO shall submit the Allegation along with all evidence that may exist, any written rebuttal from the Respondent, and any other pertinent documentation to an Inquiry Committee. This ad hoc committee shall be comprised of a member of the Advisory Committee for Scholarship and Research of the Graduate Council, and one to two faculty and/or subject matter experts within or outside the University that hold the necessary expertise to conduct the review. The RIO shall appoint the committee within ten (10) calendar days of assessment completion and provide necessary staff support.

6.5. Charge to the Committee

6.5.1. The RIO will prepare a charge for the Inquiry Committee that:

6.5.1.1. Sets forth the time for completion of the Inquiry;

6.5.1.2. Describes the Allegations and any related issues identified during the Allegation assessment;

6.5.1.3. States that the purpose of the Inquiry is to conduct an initial review of the evidence, including the testimony of the Respondent(s), Complainant and key witnesses; to provide information to the RIO who will communicate to the VPR whether an Investigation is warranted; not to determine whether Research Misconduct definitely occurred or who was responsible;

6.5.1.4. States that an Investigation is warranted if the committee determines: (1) there is a reasonable basis for concluding that the Allegation falls within the definition of Research Misconduct and is within the jurisdictional criteria of the appropriate federal code where applicable; and, (2) the Allegation may have substance, based on the committee's review during the Inquiry;

6.5.1.5. Informs the Inquiry Committee that they are responsible for preparing or directing the preparation of a written report of the Inquiry that meets the requirements of this policy;

6.5.2. At the committee's first meeting, the RIO will review the charge with the committee, discuss the Allegations, any related issues, and the appropriate procedures for conducting the Inquiry; assist the committee with organizing plans for the Inquiry; and answer any questions raised by the committee. The RIO shall be present or available throughout the Inquiry to advise the committee as needed; and

6.5.3. The Inquiry Committee meeting(s) and completion of the initial draft Inquiry Report to be submitted to the VPR should be completed within approximately four (4) weeks.

6.6. Inquiry Process

The Inquiry Committee shall normally interview the Complainant, the Respondent(s) and key witnesses as well as examine relevant research records and materials. The Inquiry Committee shall evaluate the evidence, including the testimony obtained during the Inquiry. After consultation with the RIO, the

committee will decide whether an Investigation is warranted based on the criteria in this policy and in any applicable federal or other applicable regulations (42 CFR 93.307(d)). The scope of the Inquiry is not required to and does not normally include deciding whether misconduct definitely occurred, determining definitely who committed the Research Misconduct or conducting exhaustive interviews and analyses. However, if a legally sufficient admission of Research Misconduct is made by the Respondent(s), misconduct may be determined at the Inquiry stage if all relevant issues are resolved. In that case, the University shall promptly consult with the ORI or appropriate federal regulatory agency to determine the next steps that should be taken. If a non-federal sponsor is involved without federal funds, the RIO will consult with appropriate University officials to determine the next steps.

6.7. Time for Completion

The Inquiry Committee shall make a written recommendation to the VPR on whether a formal Investigation is warranted. The Inquiry, including preparation of the final Inquiry report and the decision of the VPR on whether an Investigation is warranted, must be completed within sixty **(60)** calendar days of initiation of the Inquiry. The RIO is responsible for ensuring all stages of the Inquiry are met in a timely manner. If the RIO determines that circumstances clearly warrant a longer period and the VPR approves an extension, the Inquiry record must include documentation of the reasons for exceeding the 60-day period. The Respondent(s) and all witnesses shall cooperate by timely response to requests for documents and/or information from the Inquiry Committee.

7. INQUIRY REPORT

7.1. Elements of the Inquiry Report

A written Inquiry report shall be prepared that includes the following information: (1) the name and position of the Respondent(s); (2) a description of the Allegations of Research Misconduct; (3) the funding support, if any (incl. grant numbers, grant applications, contracts and publications listing specific financial support); (4) the names and titles of the committee members who conducted the Inquiry; (5) a summary of the Inquiry process used; (6) a list of research records reviewed; (7) summaries of any interviews; (8) the basis for recommending or not recommending that the Allegations warrant an Investigation; (9) any comments on the draft report by the Respondent(s) or Complainant and (10) whether any actions should be taken if an Investigation is not recommended. University Counsel should review the report for legal sufficiency. Modifications should be made as appropriate in consultation with the RIO and the Inquiry Committee.

7.2. Notification to the Respondent(s) and Opportunity to Comment

The RIO will provide the Respondent with a copy of the draft Inquiry report for comment and rebuttal and will provide the Complainant, if he or she is identifiable, a summary of the Inquiry findings for comment. Within seven (7) calendar days of their receipt of the draft report, the Complainant and Respondent may provide their comments, if any, to the RIO. Any comments submitted by the Respondent and/or Complainant will be forwarded to the committee by the RIO to become part of the final Inquiry record. Based on the comments, the Inquiry Committee may revise the report as appropriate. The committee will deliver the final report to the VPR.

7.3. Decision by Deciding Official

Within ten (10) calendar days of receiving the recommendation from the Inquiry Committee, the VPR, after consulting with University Counsel and the RIO, shall determine whether to conduct an Investigation, to drop the matter, or to take some other appropriate action. If the VPR decides not to pursue the matter further, the RIO will seal all files and notify the Respondent and the Complainant in writing that the Allegations have been dropped.

If the VPR decides to proceed with an Investigation, the RIO will notify the Respondent and Complainant in writing, and the VPR will notify the Provost; the RIO will also notify external funding agencies and governmental offices as contractually required.

7.4. Notification to ORI

If it is decided by the VPR that an Investigation is warranted, the RIO will provide ORI (or other appropriate regulatory agency and/or sponsor, if any) with the VPR's written decision and a copy of the Inquiry report within thirty **(30)** calendar days of the decision. The RIO will also notify those University officials who need to know of the VPR's decision. The RIO must provide the following information to ORI upon request: (1) the institutional policies and procedures under which the Inquiry was conducted; (2) the research records and evidence reviewed, typed notes, or recordings of any interviews, and copies of all relevant documents; and (3) the Allegations to be considered in the Investigation.

7.5. Documentation of Decision Not to Investigate

If the VPR decides that an Investigation is not warranted, the RIO shall secure and maintain for seven years after the termination of the Inquiry sufficiently detailed documentation of the Inquiry to permit a later assessment by ORI (or other appropriate regulatory agency and/or sponsor) of the reasons why an Investigation was not conducted. These documents must be provided to ORI or other authorized HHS personnel upon request.

8. CONDUCTING THE INVESTIGATION

8.1. Initiation and Purpose

The Investigation must begin within thirty **(30)** calendar days after the determination by the VPR that an Investigation is warranted. The purpose of the Investigation is to develop a factual record by exploring the Allegations in detail and examining the evidence in depth, leading to recommended findings on whether Research Misconduct has been committed, by whom, and to what extent. In conducting the Investigation, the RIO will pursue diligently all significant issues and leads discovered that are determined relevant to the Investigation, including any evidence of additional instances of possible Research Misconduct, and continue the Investigation to completion. If in the course of the Investigation, the RIO determines there are additional Allegations of Research Misconduct, the RIO will notify the Respondent(s).

8.2. Notifying ORI and Respondent(s); Sequestration of Research Records

On or before the date on which the Investigation begins, the RIO will: (1) notify ORI or any appropriate regulatory agency or sponsor official where applicable of the decision to begin the Investigation and provide a copy of the Inquiry report as requested; and (2) notify the Respondent(s) in writing of the

Allegations to be investigated. The RIO will also provide the Respondent(s) written notice of any new Allegations of Research Misconduct within a reasonable amount of time of deciding to pursue Allegations not addressed during the Inquiry or in the initial notice of the Investigation.

The RIO will, prior to notifying Respondent(s) of the Allegations, take all reasonable and practical steps to obtain custody of and sequester in a secure manner all research records and evidence needed to conduct the Research Misconduct proceedings that were not previously sequestered during the Inquiry. The need for additional sequestration of records for the Investigation may occur for any number of reasons, including the University's decision to investigate additional Allegations not considered during the Inquiry stage or the identification of records during the Inquiry that had not been previously secured. The procedures to be followed for sequestration during the Investigation are the same procedures that apply during the Inquiry.

8.3. Appointment of the Investigation Committee

The VPR will notify the Provost who will appoint an Investigation Committee and the Committee Chair within ten (10) calendar days of the determination that an Investigation is warranted by the VPR. The Investigation Committee will consist of a minimum of three persons, at least two of whom must be faculty. The Investigation Committee must consist of individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the Investigation, are not a Complainant and, where practical, include individuals with appropriate scientific or professional expertise to evaluate the evidence and issues related to the Allegation whether internal or external to Binghamton University. Individuals appointed to the Investigation Committee may also have served on the Inquiry Committee. The Respondent will receive written notification of the committee composition by the RIO and may challenge any committee member, within seven (7) days of written notification on the grounds that the member does not meet the above criteria.

8.4. Charge to the Committee and First Meeting

8.4.1. The RIO will define the subject matter of the Investigation in a written charge to the committee that:

8.4.1.1. Describes the Allegations and related issues identified during the Inquiry;

8.4.1.2. Identifies the Respondent(s);

8.4.1.3. Informs the committee that it must conduct the Investigation as prescribed below in the Investigation Process section;

8.4.1.4. Defines Research Misconduct;

8.4.1.5. Informs the committee that it must evaluate the evidence and testimony to determine whether, based on a preponderance of the evidence, Research Misconduct occurred and, if so, the type and extent of it and who was responsible;

8.4.1.6. Informs the committee that in order to determine that the Respondent(s) committed Research Misconduct it must find that a preponderance of the

evidence establishes that: (1) Research Misconduct, as defined in this policy, occurred (Respondent(s) has the burden of proving by a preponderance of the evidence any affirmative defenses raised, including honest error or a difference of opinion); (2) the Research Misconduct is a significant departure from accepted practices of the relevant research community; and (3) the Respondent(s) committed the Research Misconduct intentionally, knowingly, or recklessly; and

8.4.1.7. Informs the committee that it must prepare or direct the preparation of a written Investigation Report that meets the requirements of this policy and any applicable federal regulations (42 CFR 93.313).

8.4.2. The RIO shall convene the first meeting of the Investigation Committee to review the charge, the Inquiry Report, and the prescribed procedures and standards for the conduct of the Investigation, including the necessity for confidentiality and for developing a specific Investigation plan. The Investigation Committee shall be provided with a copy of this policy and any applicable federal regulations. The RIO shall be present or available throughout the Investigation to advise the committee as needed.

8.5. Investigation Process

8.5.1.The Investigation Committee and the RIO will:

8.5.1.1. Use diligent efforts to ensure that the Investigation is thorough and sufficiently documented and includes examination of all research records and evidence relevant to reaching a decision on the merits of each Allegation;

8.5.1.2. Take reasonable steps to ensure an impartial and unbiased Investigation

8.5.1.3. Interview each Respondent(s), Complainant, and any other available person who has been identified as having information regarding any relevant aspects of the Investigation, including witnesses identified by the Respondent(s), and record or transcribe each interview, provide the recording or transcript to the interviewee for correction, and include the typed notes or recordings in the record of the Investigation; and

8.5.1.4. Pursue diligently all relevant information including evidence of any possible Research Misconduct, and continue the Investigation to completion.

8.5.2. The Investigation Committee is to complete their Investigation within approximately forty-five (45) days of commencement and submit a draft report to the VPR for review.

8.6. Time for Completion

The Investigation is to be completed within one hundred-twenty **(120)** days of initiation, including conducting the Investigation, preparing the report of findings, providing the draft report for comment and sending the final report to ORI or other appropriate regulatory agency or sponsor, where applicable. However, if the RIO determines that the Investigation will not be completed within this **120-day** period,

when appropriate, he/she will submit to ORI a written request for an extension, setting forth the reasons for the delay. The RIO will ensure that periodic progress reports are filed with ORI, if ORI grants the request for an extension and directs the filing of such reports.

9. THE INVESTIGATION REPORT

9.1. Elements of the Investigation Report

9.1.1. The Investigation Committee and the RIO are responsible for preparing a written draft report of the Investigation that:

9.1.1.1. Describes the nature of the Allegation of Research Misconduct, including identification of the Respondent(s);

9.1.1.2. Describes and documents the applicable PHS and/or other support, if any (incl. grant numbers, grant applications, contracts, publications listing sponsor support, and any other documentation found);

9.1.1.3. Describes the specific Allegations of Research Misconduct considered in the Investigation;

9.1.1.4. Includes the University policies and procedures under which the Investigation was conducted, unless those policies and procedures were provided to ORI previously;

9.1.1.5. Identifies and summarizes the research records and evidence reviewed and identifies any evidence taken into custody but not reviewed; and

9.1.1.6. Includes a statement of findings for each Allegation of Research Misconduct identified during the Investigation. Each statement of findings shall: (1) identify whether the Research Misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the Respondent(s), including any effort by the Respondent(s) to establish by a preponderance of the evidence that he or she did not engage in Research Misconduct because of honest error or a difference of opinion; (3) identify the specific financial support; (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the Research Misconduct; and (6) list any current support or known applications or proposals for support that the Respondent(s) has pending with any federal agencies or other sponsors.

9.2. Comments on the Draft Report and Access to Evidence

9.2.1. The RIO shall give the Respondent(s) a copy of the draft Investigation Report for comment and, concurrently, a copy of, or supervised access to the evidence on which the report is based. The Respondent(s) shall be allowed thirty **(30)** calendar days from the date he/she received the draft report to submit comments to the RIO. The

Respondent(s)'s comments shall be attached and considered in the final report.

9.2.2. In distributing the draft report, or portions thereof, to the Respondent(s), the RIO shall inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. The RIO may require that the recipient sign a confidentiality agreement.

9.3. Decision by the Deciding Official

The RIO shall assist the Investigation Committee in finalizing the Investigation Report, and transmit the final Investigation Report to the VPR, who shall determine in writing: (1) whether the University accepts the Investigation Report and its findings; and (2) the appropriate University actions in response to the accepted findings of Research Misconduct. If this determination varies from the findings of the Investigation Committee, the VPR shall, as part of his/her written determination, explain in detail the basis for rendering a decision different from the findings of the Investigation Committee. Alternatively, the VPR may return the report to the Investigation Committee with a request for further fact-finding or analysis.

When a final decision on the case has been reached by the VPR, the RIO shall notify both the Respondent(s) and the Complainant of the determination in writing. After informing the appropriate. federal regulatory agency and/or other sponsors, the VPR shall determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified information may have been published, collaborators of the Respondent(s) in the work, or other persons with legitimate reason to know should be notified of the outcome of the VPR's decision

9.4. Notice to the Appropriate Federal Agency and/or Other Sponsor

The RIO shall be responsible for ensuring compliance with all notification requirements of ORI, and funding or sponsoring agencies. Unless an extension has been granted, the RIO must within the **120-day** period for completing the Investigation prepare the following: (1) a copy of the final Investigation Report with all attachments and any appeal; (2) a statement of whether the University accepts the findings of the Investigation Report or the outcome of the appeal; (3) a statement of whether the University found misconduct and, if so, who committed the misconduct; and (4) a description of any pending or completed administrative actions against the Respondent(s).

9.4.1. If any criminal activities are discovered or claimed during inquiry or investigation, University Counsel shall be informed.

9.4.2. Federal agencies will be kept informed of all Inquiries and Investigations as required contractually.

9.4.2.1. In the early Inquiry stage if there is one or more of the following: an immediate health hazard; need to protect sponsor resources; need to protect human or animal subjects; need to protect person reporting misconduct.

9.4.2.2. The VPR recommends an Investigation.

9.4.2.3. The findings of the Investigation and the institutional sanctions.

9.5. Maintaining Records for Review by ORI

The RIO must maintain and provide to ORI, or other appropriate regulatory agencies or sponsors, upon request "records of Research Misconduct proceedings" as that term is defined by 42 CFR 93.317 or any

subsequent regulations. Unless custody has been transferred to HHS or ORI has advised in writing that the records no longer need to be retained, records of Research Misconduct proceedings must be maintained in a secure manner for seven **(7)** years after completion of the proceeding or the completion of any PHS proceeding involving the Research Misconduct Allegation. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by ORI to carry out its review of an Allegation of Research Misconduct or of the University's handling of such an Allegation.

10. COMPLETION OF CASES; REPORTING OF CASE CLOSURES

Inquiries and Investigations shall be completed. The RIO must notify the appropriate regulatory agency, including ORI when required, in advance if there are plans to close a case at the Inquiry, Investigation, or appeal stage on the basis that Respondent(s) has admitted guilt, a settlement with the Respondent(s) has been reached, or for any other reason, except: (1) closing of a case at the Inquiry stage on the basis that an Investigation is not warranted; or (2) a finding of no misconduct at the Investigation stage.

11. INSTITUTIONAL ADMINISTRATIVE ACTIONS

11.1. Not Substantiated

Where Allegations are not substantiated, the University shall take action to clear the reputations of those falsely accused; all files relating to the case will be sealed.

11.2. Substantiated

When the findings of the Investigation substantiate the Allegation of Research Misconduct, the President shall initiate appropriate action, depending on the nature of the misconduct and the employment status of the individual involved. The VPR will notify the Respondent's Dean and Chair, or the appropriate Program Director/Department Head of the findings. The RIO, on behalf of the VPR and the President, shall notify the sponsor of the action if the research was performed with external support. United University Professions – represented employees may be disciplined according to Article 19 of the agreement with UUP or may be subject to such other action as the President deems appropriate.

11.3. Corrective Actions

The research record shall be corrected if fabricated or fraudulent information has been published.

12. OTHER CONSIDERATIONS

12.1. Termination or resignation Prior to Completing Inquiry or Investigation

The termination of the Respondent's University or University Research Foundation employment, by resignation or otherwise, before or after an Allegation of possible Research Misconduct has been reported, will not preclude or terminate the Research Misconduct proceeding or otherwise limit any of the University or University Research Foundation responsibilities under applicable law (42 CFR 93). If the Respondent(s), without admitting to the misconduct, elects to resign his or her position after the University receives an Allegation of Research Misconduct, the Inquiry and Investigation of the Allegation

shall proceed. If the Respondent(s) refuses to participate in the process after separation from employment, the RIO and any Inquiry or Investigation Committee shall use their best efforts to reach a conclusion concerning the Allegations, noting in the report the Respondent(s)'s failure to cooperate and its effect on the evidence.

12.2. Restoration of the Respondent(s)'s Reputation

Following a final finding of no Research Misconduct and upon the request of the Respondent(s), the RIO shall undertake all reasonable and practical efforts to restore the Respondent's reputation. Depending on the particular circumstances and the views of the Respondent(s), the RIO shall publicize the final outcome in any forum in which the Allegation of Research Misconduct was previously publicized. Any institutional actions to restore the Respondent(s)'s reputation should first be approved by the VPR.

12.3. Protection of Complainant, Witnesses and Committee Members

During the Research Misconduct proceeding and upon its completion, regardless of whether it was determined that Research Misconduct occurred, the RIO shall take steps to counter potential or actual retaliation against any Complainant who made Allegations of Research Misconduct in good faith and any witnesses and committee members who cooperate in good faith with the Research Misconduct proceeding.

12.4. Allegations Not Made in Good Faith

If relevant, the VPR will determine whether the Complainant's Allegations of Research Misconduct were made in good faith, or whether a witness or committee member acted in good faith. If the VPR determines that there was an absence of good faith, he/she will determine whether any corrective action should be taken against the person who failed to act in good faith.

Approved by Faculty Senate: 02/20/2018

Appendix A

Procedural Timelines Anticipated

Within five (5) work days of receipt of an Allegation, the RIO will conduct an assessment of the Allegation to determine of an Inquiry is warranted (6.1).

Upon the determination that an Inquiry is warranted, the following timeline (in calendar days) is to be followed.

Inquiry Timeline-Inquiry to be completed within **60 days** of initiation (6.7).

Day 1-10	RIO to notify Respondent of Allegation (6.3)
Day 1-10	RIO to appoint Ad Hoc Inquiry Committee (6.4)
Day 10-37	Inquiry conducted and draft Inquiry Report submitted to the VPR (6.5)
Day 38	VPR reviews Report Draft; Report (7.2)
Day 38-44	Draft Report/summary of findings sent by RIO to Respondent/Complainant for review and rebuttal (7.2)
Day 45-48	Final Inquiry Report prepared and submitted to the VPR by Committee (7.2)
Day 49-58	VPR reviews and notifies RIO of determination (7.3)
Day 58-60	RIO provides written determination to Respondent and Complainant (7.3)

Upon the determination that an Investigation is warranted, the following timeline (in calendar days) is to be followed.

Investigation Timeline-Investigation to be completed within **120 days** of Investigation initiation (8.6).

Day 61-90	RIO will notify Respondents, ORI, and any applicable agencies/sponsors of the Investigation within **30 days** of the Investigation determination (7.4/8.2)
Day 61-70	VPR notifies Provost to appoint Ad Hoc Investigation Committee (8.3)
Day 70	RIO will notify the Respondent of the Investigation and the Committee constructs (8.3)
Day 70-76	Respondent may challenge the appointment of any member of the Committee (8.3)
Day 77-121	Investigation conducted (must begin within **30 days** of determination) and draft Investigation Report submitted to the VPR (8.5)
Day 121-27	VPR reviews Report; RIO send draft of the Report to the Respondent for review and rebuttal (9.2)
Day 127-156	Respondent to submit rebuttal to RIO within **30 days** (9.2)
Day 157-162	Final Investigation Report prepared and submitted to the VPR by Committee (9.3)
Day 163-176	VPR reviews and notifies RIO of determination (9.3)
Day 176-180	RIO notifies Respondent, ORI, and agencies of determinations within **120 days** of the Investigation initiation (9.3/9.4/10.0)

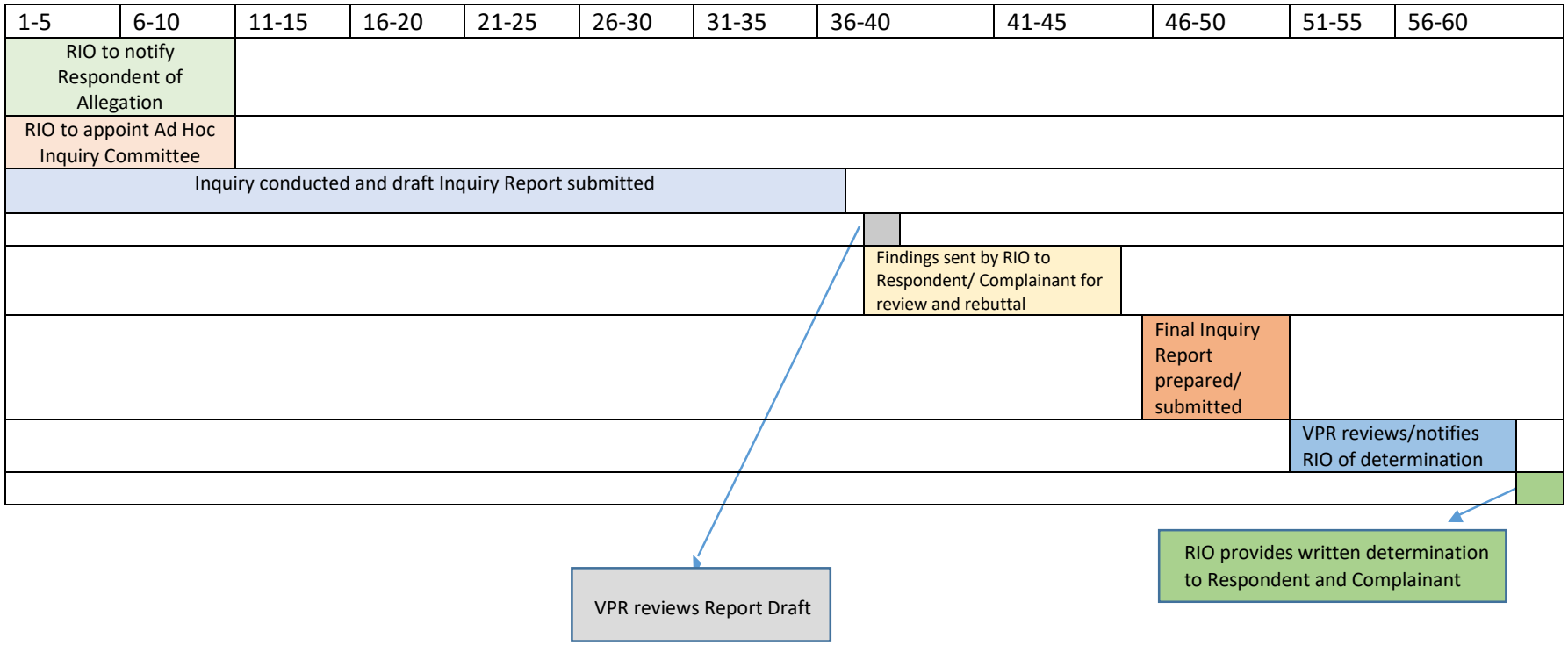
Total timeline from initiation of Inquiry to close of Investigation is 180 calendar days (**60 days-Inquiry/120 days-Investigation**) unless extensions are found necessary and formally approved.

*Records of Research Misconduct proceedings must be maintained for **7 years** after completion.*

Bold indicates federal mandate.

Inquiry Timeline from Initiation

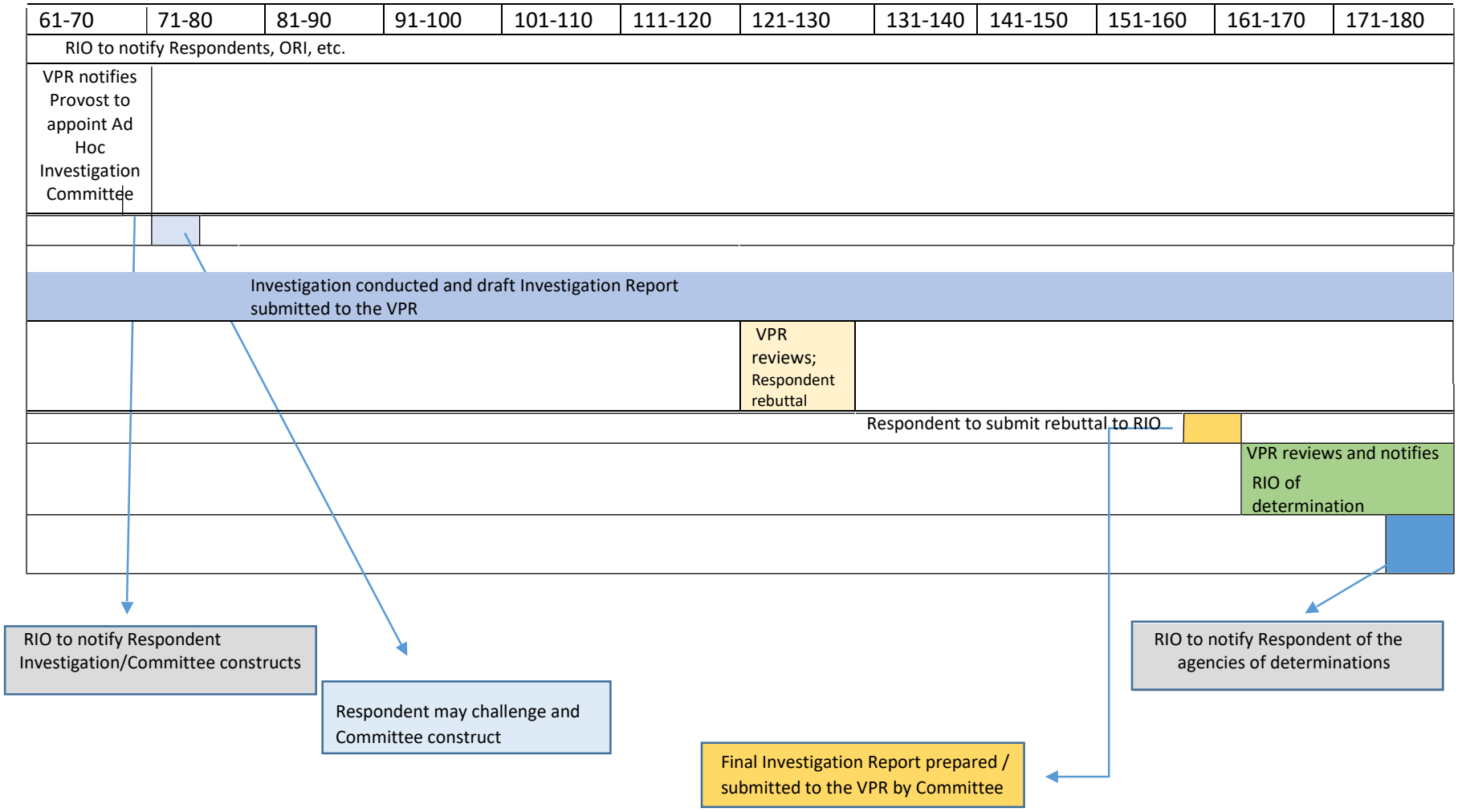
Days



Note: Within five (5) work days of receipt of an Allegation, the RIO will conduct an assessment of the Allegation to determine of an Inquiry is warranted.

Investigation Timeline from Initiation

Days



Total timeline from initiation of Inquiry to close of Investigation is 180 calendar days (60 days-Inquiry/120 days-Investigation) unless extensions are found necessary and formally approved.