SOP 1.5 Sequestration

General Description:

The university owns research data generated by university employees during the course of carrying out their official university duties and owns university equipment, including computers and telephones, and facilities. All data generated on sponsored programs is owned by the university.

42 CFR 93.305 specifies:

“(a) Either before or when the institution notifies the respondent of the allegation, inquiry or investigation, promptly take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, 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;

(b) Where appropriate, give the respondent copies of, or reasonable, supervised access to the research records;

(c) Undertake all reasonable and practical efforts to take custody of additional research records or evidence that is discovered during the course of a research misconduct proceeding”

Procedures:

When an Allegation is Received, the RIO may:

1. Sequester immediately any evidence that the Complainant or other witness may provide in the initial interview. Issue signed receipts for these materials.

2. Use the initial interview with the Complainant and any other witnesses (before the Respondent has notice of the Allegation) to identify any evidence pertinent to the allegation, where that evidence is and who likely has custody of that evidence.

In advance of sequestration of evidence the RIO may:

1. Assemble a set of subject-matter advisors from key disciplines whom the RIO can call upon confidentially to review allegations and, when necessary, help plan and even participate in sequestration.

2. Prepare sequestration team which may include the RIO, RIO assistants, university legal counsel, subject matter/disciplinary expert, IT experts, security.

3. Prepare for secure storage of sequestered data including preparing chain of custody forms and location for storage of any sequestered materials.
4. Identify the data/evidence the team knows about, it’s location and custody.

5. Develop maps of laboratories or other facility that can be used to indicate probable location of evidence.

6. Review with subject matter experts what the evidence will consist of/look like and any special arrangements that will have to be made for sequestration/secure storage, e.g. biologicals, hazardous substances.

7. If evidence is likely to be in multiple locations, decide the order of the sequestration, keeping in mind the requirement to sequester evidence before or simultaneously with notice to the Respondent (and before the Respondent receives news of the allegation and sequestration if at all possible).

8. Discuss provisions for sequestering data that may be off campus or otherwise out of the institution’s immediate control.

9. Discuss electronic evidence/data that may be pertinent (including e-mail) and where it is stored. For data in central facilities (e.g. university e-mail, shared data storage facilities), sequester immediately using appropriate technology and practice.

10. Review provisions for handling Respondent resistance to sequestration.

11. Plan to sequester broadly; consider what data that hasn’t yet been identified might consist of and where it might be - e.g. review recent grant proposals, publications by Respondent and collaborators, if any.

During the Sequestration the RIO will:

1. Take appropriate members of the team.

2. Plan so that the Respondent and others whom you may need to talk with about data are likely to be there, but other personnel absent.

3. Engage the Respondent while the RIO assistant or legal counsel is talking to and watching others in the lab/office.

4. Try to accomplish a number of things. Among the RIO’s goals is to seek the Respondent’s cooperation in identifying and helping RIO sequester data pertinent to specific parts of the Allegation.

5. Proceed to sequester data in other locations and/or in the custody of others based on the priority list above.

6. Always provide itemized (to the extent possible), signed and witnessed receipts for evidence sequestered.

7. Arrange to make and provide to Respondent/others copies of data they may need for their
work as quickly as possible, asking them to identify the data they need most quickly.

8. In cases where research equipment and instruments are shared by a number of users, the RIO will make forensic images wherever possible to minimize disruption to other users.

After Sequestration the RIO will:

1. Itemize and catalogue evidence carefully.

2. Store data securely, plan for chain-of-custody use.

3. Debrief with sequestration team, discussing problems that need to be addressed, additional sequestration that may have to be done.

4. Provide copies of, or reasonable supervised access to, the research records to the respondent(s) and others who participated in the work.

5. During pendency of the case, repeat sequestration as needed.

**Related Forms, Guidance, and SOPs:**

Policy 4007, Misconduct in Research and Scholarship

**Responsibility:**

Execution of SOP:
Research Integrity Officer

**Approval and Version History:**

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