

§ 93.305

42 CFR Ch. I (10–1–07 Edition)

(e) Opportunity for the respondent to provide written comments on the institution's inquiry report;

(f) Opportunity for the respondent to provide written comments on the draft report of the investigation, and provisions for the institutional investigation committee to consider and address the comments before issuing the final report;

(g) Protocols for handling the research record and evidence, including the requirements of § 93.305;

(h) Appropriate interim institutional actions to protect public health, Federal funds and equipment, and the integrity of the PHS supported research process;

(i) Notice to ORI under § 93.318 and notice of any facts that may be relevant to protect public health, Federal funds and equipment, and the integrity of the PHS supported research process;

(j) Institutional actions in response to final findings of research misconduct;

(k) All reasonable and practical efforts, if requested and as appropriate, 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;

(l) All reasonable and practical efforts to protect or restore the position and reputation of any complainant, witness, or committee member and to counter potential or actual retaliation against these complainants, witnesses, and committee members; and

(m) Full and continuing cooperation with ORI during its oversight review under Subpart D of this part or any subsequent administrative hearings or appeals under Subpart E of this part. This includes providing all research records and evidence under the institution's control, custody, or possession and access to all persons within its authority necessary to develop a complete record of relevant evidence.

§ 93.305 Responsibility for maintenance and custody of research records and evidence.

An institution, as the responsible legal entity for the PHS supported research, has a continuing obligation under this part to ensure that it main-

tains adequate records for a research misconduct proceeding. The institution must—

(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, 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; and

(d) Maintain the research records and evidence as required by § 93.317.

§ 93.306 Using a consortium or other person for research misconduct proceedings.

(a) An institution may use the services of a consortium or person that the institution reasonably determines to be qualified by practice and experience to conduct research misconduct proceedings.

(b) A consortium may be a group of institutions, professional organizations, or mixed groups which will conduct research misconduct proceedings for other institutions.

(c) A consortium or person acting on behalf of an institution must follow the requirements of this part in conducting research misconduct proceedings.