§ 93.514 Amendment to the charge letter.

(a) The ORI may amend the findings of research misconduct up to 30 days before the scheduled hearing.

(b) The ALJ may not unreasonably deny a respondent’s motion to postpone all or part of the hearing to allow sufficient time to prepare and respond to the amended findings.

§ 93.515 Actions for violating an order or for disruptive conduct.

(a) The ALJ may take action against any party in the proceeding for violating an order or procedure or for other conduct that interferes with the prompt, orderly, or fair conduct of the hearing. Any action imposed upon a party must reasonably relate to the severity and nature of the violation or disruptive conduct.

(b) The actions may include—

(1) Prohibiting a party from introducing certain evidence or otherwise supporting a particular claim or defense;
(2) Striking pleadings, in whole or in part;
(3) Staying the proceedings;
(4) Entering a decision by default;
(5) Refusing to consider any motion or other action not timely filed; or
(6) Drawing the inference that spoliated evidence was unfavorable to the party responsible for its spoliation.

§ 93.516 Standard and burden of proof.

(a) Standard of proof. The standard of proof is the preponderance of the evidence.

(b) Burden of proof. (1) ORI bears the burden of proving the findings of research misconduct. The destruction, absence of, or respondent’s failure to provide research records and destroyed them, had the opportunity to maintain the records but did not do so, or maintained the records and failed to produce them in a timely manner and the respondent’s conduct constitutes a significant departure from accepted practices of the relevant research community.

(2) The respondent has the burden of going forward with and the burden of proving, by a preponderance of the evidence, any and all affirmative defenses raised. In determining whether ORI has carried the burden of proof imposed by