

INSTITUTIONAL COMPLIANCE ISSUES

§ 93.412 Making decisions on institutional noncompliance.

(a) Institutions must foster a research environment that discourages misconduct in all research and that deals forthrightly with possible misconduct associated with PHS supported research.

(b) ORI may decide that an institution is not compliant with this part if the institution shows a disregard for, or inability or unwillingness to implement and follow the requirements of this part and its assurance. In making this decision, ORI may consider, but is not limited to the following factors—

- (1) Failure to establish and comply with policies and procedures under this part;
- (2) Failure to respond appropriately when allegations of research misconduct arise;
- (3) Failure to report to ORI all investigations and findings of research misconduct under this part;
- (4) Failure to cooperate with ORI's review of research misconduct proceedings; or
- (5) Other actions or omissions that have a material, adverse effect on reporting and responding to allegations of research misconduct.

§ 93.413 HHS compliance actions.

(a) An institution's failure to comply with its assurance and the requirements of this part may result in enforcement action against the institution.

(b) ORI may address institutional deficiencies through technical assistance if the deficiencies do not substantially affect compliance with this part.

(c) If an institution fails to comply with its assurance and the requirements of this part, HHS may take some or all of the following compliance actions:

- (1) Issue a letter of reprimand.
- (2) Direct that research misconduct proceedings be handled by HHS.
- (3) Place the institution on special review status.
- (4) Place information on the institutional noncompliance on the ORI Web site.

(5) Require the institution to take corrective actions.

(6) Require the institution to adopt and implement an institutional integrity agreement.

(7) Recommend that HHS debar or suspend the entity.

(8) Any other action appropriate to the circumstances.

(d) If the institution's actions constitute a substantial or recurrent failure to comply with this part, ORI may also revoke the institution's assurance under §§ 93.301 or 93.303.

(e) ORI may make public any findings of institutional noncompliance and HHS compliance actions.

DISCLOSURE OF INFORMATION

§ 93.414 Notice.

(a) ORI may disclose information to other persons for the purpose of providing or obtaining information about research misconduct as permitted under the Privacy Act, 5 U.S.C. 552a.

(b) ORI may publish a notice of final agency findings of research misconduct, settlements, and HHS administrative actions and release and withhold information as permitted by the Privacy Act and the Freedom of Information Act, 5 U.S.C. 552.

Subpart E—Opportunity To Contest ORI Findings of Research Misconduct and HHS Administrative Actions

GENERAL INFORMATION

§ 93.500 General policy.

(a) This subpart provides a respondent an opportunity to contest ORI findings of research misconduct and HHS administrative actions, including debarment or suspension, arising under 42 U.S.C. 289b in connection with PHS supported biomedical and behavioral research, research training, or activities related to that research or research training.

(b) A respondent has an opportunity to contest ORI research misconduct findings and HHS administrative actions under this part, including debarment or suspension, by requesting an