

## UNIVERSITY OF MANITOBA PROCEDURE

<b>Procedure:</b>	<b>Responsible Conduct of Research – Investigation Procedure</b>
<b>Parent Policy:</b>	Responsible Conduct of Research
<b>Effective Date:</b>	July 17, 2013
<b>Revised Date:</b>	October 30, 2017
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<b>Approving Body:</b>	President
<b>Authority:</b>	Responsible Conduct of Research Policy
<b>Responsible Executive Officer:</b>	President, delegated to Vice-President (Research and International)
<b>Delegate: (If applicable)</b>	Vice-President (Research and International)
<b>Contact:</b>	Vice-President (Research and International)
<b>Application:</b>	Students, Employees and Researchers

### Part I Reason for Procedure

- 1.1 Researchers are expected to conduct Research in accordance with the University's Code of Research Ethics and the Responsible Conduct of Research Policy, and to uphold the following responsibilities:
- (a) *Accurate Referencing:* Referencing and, where applicable, obtaining permission for the use of all published and unpublished work, including theories, concepts, data, source material, methodologies, findings, graphs and images.
  - (b) *Acknowledgment:* Acknowledging appropriately all those and only those who have contributed to research, including funders and sponsors.
  - (c) *Authorship:* Including as authors, with their consent, all those and only those who have made a substantial contribution to, and who accept responsibility for, the contents of the publication or document. The substantial contribution may be conceptual or material.

- (d) *Conflict of Interest Management*: Appropriately identifying and addressing any real, potential or perceived conflict of interest, in accordance with the Code of Research Ethics and the Conflict of Interest policy, in order to meet the objectives of the Tri-Agency Framework: Responsible Conduct of Research (2016) to:
  - (i) Ensure that the funding decisions made by the Funding Agencies are based on accurate and reliable information;
  - (ii) Ensure public funds for research are used responsibly and in accordance with funding agreements;
  - (iii) Promote and protect the quality, accuracy, and reliability of research funded by the Funding Agencies; and
  - (iv) Promote fairness in the conduct of research and in the process for addressing allegations of policy breaches.
- (e) *Record Keeping*: Keeping complete and accurate records of data, methodologies and findings, including graphs and images, in accordance with the applicable funding agreement, institutional policies, laws, regulations, and professional or disciplinary standards in a manner that will allow verification or replication of the work by others.
- (f) *Rigour*: Scholarly and scientific rigour in proposing and performing research; in recording, analyzing, and interpreting data; and in reporting and publishing data and findings.

1.2 These Procedures are intended to detail how the University will manage Disclosures and Investigate allegations under the Responsible Conduct of Research Policy.

## **Part II Procedural Content**

### **Definitions**

- 2.1 The following terms have the following defined meanings for the purpose of this Procedure:
- (a) **"Breach"** means conduct, behaviour, actions or omissions which are inconsistent with or violate the Code of Research Ethics. Innocent errors and oversights may constitute a Breach, but intention will be considered in regard to any penalty, discipline or other measures taken following an Investigation. A Breach may include, without limitation:

- (i) *Breach of Agency Policies or Requirements for Certain Types of Research:* Failure to meet Funding Agency policy requirements or, to comply with relevant policies, laws or regulations, for the conduct of certain types of research activities; failure to obtain appropriate approvals, permits or certifications before conducting these activities;
- (ii) *Breach of Agency Review Processes:* Non-compliance with the "Conflict of Interest and Confidentiality Policy of the Federal Research Funding Organizations"; participating in a Funding Agency review process while under Investigation.
- (iii) *Copyright Breach:* Failure to obtain permission for the use of all Works, in accordance with the applicable copyright law, and the University's policies, procedures, guidelines and rules related to copyright;
- (iv) *Destruction of records:* Failure to keep complete and accurate records of methodologies, data and findings, including destroying them in a manner which does not comply with the University's policies regarding records management;
- (v) *Destruction of research records.* The destruction of one's own or another's research data or records to specifically avoid the detection of wrongdoing or in contravention of the applicable funding agreement, institutional policy and/or laws, regulations and professional or disciplinary standards;
- (vi) *Fabrication:* Making up data, source material, methodologies or findings, including graphs and images;
- (vii) *Falsification:* Manipulating, changing, or omitting data, source material, methodologies or findings, including graphs and images, without acknowledgment and which results in inaccurate findings or conclusions;
- (viii) *Inadequate acknowledgment:* Failure to appropriately recognize contributors who have materially or conceptually contributed to the contents;
- (ix) *Invalid authorship:* Inaccurate attribution of authorship, including attribution of authorship to persons other than those who have made a substantial contribution to, and who accept responsibility for, the contents of a publication or document;
- (x) *Mismanagement of conflict of interest:* Failure to appropriately identify and address any real, potential or perceived conflict of interest, in accordance with section 2.5 of the Code of Research

Ethics, preventing one or more objectives of section 1.3 of the Tri-Agency Framework: Responsible Conduct of Research (2016) (reproduced in section 1.1(d) above) from being met;

- (xi) *Mismanagement of Grants or Award Funds:* Using grant or award funds for purposes inconsistent with the policies of the agencies; misappropriating grants and award funds; contravening a Funding Agency's financial policies, namely the Tri-Agency Financial Administration Guide, Funding Agency grants and awards guides; or providing incomplete, inaccurate or false information on documentation for expenditures from grant or award accounts;
  - (xii) *Misrepresentation in an Agency Application or Related Document:* Providing incomplete, inaccurate or false information in a grant award application or related document, such as a letter of support or progress report; applying for and/or holding a Funding Agency award when deemed ineligible by NSERC, SSHRC, CIHR or any other research funding organization world-wide for reasons of breach of responsible conduct of research policies such as ethics, integrity or financial management policies; and/or listing of co-applicants, collaborators or partners without their agreement;
  - (xiii) *Non-Compliance:* Failure to obtain all necessary approvals or conduct the Research in accordance with the University's policies (including research ethics approvals), the requirements of Funding Agencies, the rules of professional governing bodies, and all relevant laws;
  - (xiv) *Plagiarism:* Presenting and using another's published or unpublished Work, including theories, concepts, data, source material, methodologies or findings, including graphs and images, as one's own, without appropriate referencing and, if required, without permission; and
  - (xv) *Redundant publication or self-plagiarism:* The re-publication of one's own previous published work or part thereof, including data, in any language, without adequate acknowledgment of the source, or justification.
- (b) "**Chair**" means the Chair of the Investigation Committee.
  - (c) "**Code**" means the Code of Research Ethics applicable to Researchers, and adopted as related to the Responsible Conduct of Research Policy.
  - (d) "**Committee**" means the Investigation Committee appointed by the Designated Officer as contemplated by subsections 2.23 to 2.26 of these Procedures.

- (e) **"Designated Officer"** means an employee of the University designated to be the single central point of contact for receipt of Disclosures, and managing Investigations.
- (f) **"Disclosure"** means an allegation or complaint that the Code of Research Ethics has been or is likely to be Breached.
- (g) **"Funding Agency"** means a government agency, foundation, private or corporate sponsor of Research at the University, including the Tri-Council agencies: Canadian Institutes of Health Research (CIHR), Natural Sciences and Engineering Research Council of Canada (NSERC), and Social Sciences and Humanities Research Council of Canada (SSHRC).
- (h) **"Initial Review"** means the Initial Review of a Disclosure contemplated by subsections 2.14 to 2.22 of these Procedures.
- (i) **"Investigation"** means an investigation into an alleged Breach, in accordance with the Procedures adopted under the Policy.
- (j) **"Person"** means any person seeking advice about making a Disclosure, or making a Disclosure, including:
  - (i) any member of the University community, including Researchers;
  - (ii) representatives of Funding Agencies;
  - (iii) editor of a journal, magazine, conference proceedings, book or other publication; and
  - (iv) members of the general public.
- (k) **"Policy"** means the Responsible Conduct of Research Policy.
- (l) **"RCR Appeal Committee"** means the committee constituted to hear appeals pursuant to section 2.59(c) of this Procedure, with a membership consisting of:
  - (i) The Designated Officer or designate;
  - (ii) The Provost and Vice-President (Academic) or designate;
  - (iii) The Associate Vice-President (Human Resources) or designate; and
  - (iv) The University's General Counsel or Legal Counsel.
- (m) **"Report"** means the report of the Investigation Committee, prepared and distributed in accordance with subsections 2.49 to 2.55 of these Procedures.

- (n) **"Representative"** means:
- (i) In the case of a student, a student advocate from the University's Student Advocacy Office, a representative from the University of Manitoba Students' Union, a representative from the Graduate Students' Association, a member of the University community not receiving payment for appearing, a member of the student's immediate family or other support person as may be appropriate; and
  - (ii) In the case of a unionized employee, a union representative or support person as may be appropriate;
  - (iii) In all other cases, a lawyer or support person as may be appropriate.
- (o) **"Reprisal"** means any of the following measures, taken against a person because they have sought advice about making a Disclosure, made a good-faith Disclosure, or cooperated in an Investigation:
- (i) discipline;
  - (ii) academic penalties (in the case of students);
  - (iii) demotion;
  - (iv) termination of employment;
  - (v) termination of an academic appointment;
  - (vi) any other measure which significantly adversely affects his or her working conditions or educational experience; and
  - (vii) a threat to take any of the measures referred to above.
- (p) **"Research"** means research, scholarship and creative works, whether funded or not, which are associated with or undertaken under the auspices of the University, and in particular:
- (i) an undertaking intended to create or extend knowledge through a disciplined inquiry or systematic investigation;
  - (ii) the systematic acquisition of knowledge through disciplined inquiry, or the dissemination of such knowledge through any means or medium; and
  - (iii) an undertaking intended to result in creative works and activities.

"Research" is not intended to include the routine development of teaching materials or administrative duties.

- (q) **"Researcher"** means any individual associated with the University who engages in or supports Research, including faculty, staff, students, post-doctoral fellows, research associates, research assistants, laboratory assistants, visiting researchers, and anyone holding an academic appointment with the University.
- (r) **"SRCR"** means the Secretariat on Responsible Conduct of Research for the Canadian Institutes of Health Research (CIHR), the Natural Sciences and Engineering Research Council of Canada (NSERC), and the Social Sciences and Humanities Research Council of Canada (SSHRC) (the Agencies) and institutions that receive Agency funding,
- (s) **"Work"** means all original literary, dramatic, musical, and artistic works, performances, communication signals, and sound recordings, in any media, capable of protection under the *Copyright Act (Canada)*, as amended from time to time.

2.2 For the purposes of these Procedures, an "academic appointment" is deemed to include nil-salaried and adjunct faculty members.

### **Designated Officer**

- 2.3 The Designated Officer for the University will be the Vice-President (Research and International).
- 2.4 The Designated Officer may delegate some or all of his or her responsibility under these Procedures, either generally or with regard to a particular Disclosure, to any Associate Vice-President in the office of the Vice-President (Research and International).
- 2.5 The Designated Officer will take reasonable steps to educate the University community on the Policy, the Code, and these Procedures.
- 2.6 The Designated Officer shall hold the official file regarding all Disclosures and Investigations, and manage the file in accordance with the University's policies on records management.

### **Designated Officer Unavailable**

2.7 If the Designated Officer is unable or unwilling to fulfill his/her responsibilities under these Procedures, or the subject matter of a Disclosure is such that it would be inappropriate for the Designated Officer to manage the matter, for reason of conflict of interest or any other reason, the Designated Officer will ask the President to appoint an interim Designated Officer to manage the particular Disclosure, who may be:

- (a) Any Associate Vice-President in the office of the Vice-President (Research and International); or

- (b) Any other employee of the University, who is a member of the academic staff.
- 2.8 Any delegation under subsections 2.3 to 2.7 regarding a particular Disclosure shall be made with notice to the Person making the Disclosure.

### **Receipt of Disclosures**

- 2.9 A Person may seek advice on making a Disclosure from the Designated Officer. A request for advice must be made in writing.
- 2.10 A Person may make a Disclosure to the Designated Officer, only in writing, containing the following information:
- (a) the name of the Person;
  - (b) contact information for the Person;
  - (c) a description of the alleged Breach;
  - (d) the approximate date(s) of the alleged Breach; and
  - (e) the names of the individuals suspected of the Breach.
- 2.11 No further action is required by the Designated Officer or the University if a Disclosure does not strictly meet the above requirements, including where the Disclosure is not in writing, is anonymous, or does not contain all the required information.
- 2.12 Notwithstanding subsection 2.11, a Designated Officer may act on a non-compliant Disclosure if he or she deems the issue to be sufficiently serious and credible. Where an anonymous Disclosure is accepted, the communications with the disclosing Person normally required by these Procedures will no longer apply.
- 2.13 Where a Disclosure is received by an individual at the University other than the Designated Officer, they will immediately forward the Disclosure to the Designated Officer.

### **Initial Review of Disclosures**

- 2.14 Except in extenuating circumstances, the Designated Officer will review all Disclosures (the "Initial Review") within 15 working days of receipt.
- 2.15 A Disclosure will be accepted after Initial Review if, in the opinion of the Designated Officer, the Disclosure:
- (a) was made in good faith, and is not frivolous or vexatious;
  - (b) deals with Breach to which the Policy applies; and



- (c) has not already been (or is not in the process of being) investigated in another forum or pursuant to another policy or procedure which would deal comprehensively with the Breach alleged in the Disclosure.
- 2.16 Where a Disclosure is accepted after Initial Review and the Disclosure relates to conduct that occurred at another institution (whether as an employee, a student or in some other capacity), the Designated Officer will contact the other institution and determine with that institution's designated point of contact which institution is best placed to conduct the inquiry and investigation, if warranted. The Designated Officer will communicate to the Person which institution will be the point of contact for the Disclosure.
- 2.17 The Person will be informed in writing as to the results of the Initial Review, including where a Disclosure is rejected, the reasons for such rejection. Where the Initial Review was not completed within 15 working days, the Person will also be informed as to the reason for the delay.
- 2.18 Where a Disclosure is rejected, any individual alleged to have caused or contributed to the Breach will be informed that a Disclosure was received, the essential nature of the allegations, and the reasons for rejection.
- 2.19 Where the Disclosure alleges a Breach by an individual holding an academic appointment at the University, the Provost (or designate) will be informed of the results of the Initial Review.
- 2.20 A Disclosure which is rejected will require no further action by the Designated Officer or the University.
- 2.21 The Designated Officer shall advise any relevant Funding Agency and the SRCR of the essential allegations in a Disclosure if, in his or her opinion, the Disclosure involves a significant financial, health and safety, or other risk. The information provided, or copy of the Disclosure, may be edited in accordance with the law and University policy, to protect the identity of those involved, personal and personal health information.
- 2.22 Where a Funding Agency has been advised of a Disclosure, the Designated Officer shall also advise (no later than 60 calendar days following receipt of the Disclosure) as to whether or not an Investigation will proceed.

### **Investigation Committee**

- 2.23 The Designated Officer will immediately cause an Investigation to be conducted into any Disclosure accepted after Initial Review (the "Investigation").
- 2.24 The Designated Officer will appoint a minimum of three individuals to form an Investigation Committee (the "Committee") to conduct the Investigation, and select a Chair for the Committee from among its members.

- 2.25 In appointing the Committee, the Designated Officer will consider the skills necessary to conduct the particular Investigation, and the potential for any conflict of interest. The Committee must have a membership of at least three, in which persons holding an academic appointment are a majority, and otherwise be composed as follows:
- (a) a minimum of one person (no maximum) holding an academic appointment at the University;
  - (b) if required by a Funding Agency, a minimum of one person (no maximum) who does not have an employment relationship, contractual relationship, or academic appointment with the University;
  - (c) where the Disclosure includes allegations of a Breach by a student, post-doctoral fellow, research assistant, or research associate, any number (no minimum or maximum) of students or employees from an appropriate category.
- 2.26 If a member of a Committee is unwilling or unable to fulfill his or her duties, the Committee may continue its work so long as it has at least three members, the majority hold an academic appointment, and it continues to comply with any applicable Funding Agency requirements. If necessary, the Designated Officer may add a replacement member to a Committee, and such addition will not impact the ability of the Committee to continue its work.

### **Investigation Process**

- 2.27 Upon appointment, the Chair will write to the Researcher alleged to have committed the Breach to advise that:
- (a) An Investigation is proceeding in accordance with this Procedure, including the details of the matter being investigated and that the Researcher may be subject to disciplinary action, with specific reference to any applicable collective agreement and/or University policy or procedure.
  - (b) A Committee has been appointed and the names of the people on the Committee, with a request that the Researcher identify immediately if there is any challenge for cause of any member of the Committee including the Chair. Such cause may include a current teacher-student relationship, bias or reasonable apprehension of bias, or any factor reasonably likely to prejudice a fair consideration of the Disclosure. Such challenges will be considered by the Chair or, if the Chair is the member being challenged, by the Designated Officer.
  - (c) That the Committee will conduct an Investigation in accordance with sections 2.28, 2.29, 2.30, and 2.31 of this Procedure, the Researcher will be given an opportunity to respond to the allegations, and failure of the Researcher to respond by a reasonably specified date will result in the

matter being considered by the Committee without the Researcher's response.

- (d) The Researcher may seek advice and representation from a Representative in responding to allegations.
- (e) The Researcher may obtain a copy of this Procedure, the Policy and the Code, as well as any related University bylaws, policies and procedures, either online or through the University Secretary's office; and
- (f) The Researcher will have a right to appeal the decision of the Committee in accordance with section 2.59 of this Procedure.

2.28 The Committee may conduct the Investigation in any manner the Chair deems appropriate to the nature of the particular Disclosure, the seriousness of the issues involved, and any admissions made during the Investigation. This may include some or all of:

- (a) interviewing witnesses in person;
- (b) asking questions of witnesses in writing (including by email);
- (c) reviewing documents (both paper and electronic);
- (d) reviewing photographs, audio, and video recordings;
- (e) examining physical evidence;
- (f) arranging for testing of physical evidence; and/or
- (g) accessing electronic systems.

2.29 The Chair may set reasonable timelines for individuals to respond to requests for assistance with the Investigation.

2.30 The Committee will conduct the Investigation in accordance with the principles of procedural fairness and natural justice. In particular, the Committee will consider that:

- (a) the Person must be provided an opportunity to explain and provide evidence in support of the Disclosure;
- (b) individuals who are alleged to have caused or contributed to a Breach must be informed of the details of the alleged Breach, including having access to documentary and other evidence relevant to the alleged Breach deemed appropriate by the Committee, at a time deemed appropriate by the Committee;

- (c) it cannot rely on any evidence not disclosed to the individuals alleged to have caused or contributed to a Breach;
- (d) individuals who are alleged to have caused or contributed to a Breach must be provided an opportunity to respond to the allegations;
- (e) while strict rules of evidence do not apply, appropriate weight must be given to evidence based on its credibility and reliability; and
- (f) witnesses (including those making or the subject of a Disclosure) should be given a reasonable opportunity to consult with a Representative.

2.31 An Investigation must normally be completed within 90 calendar days of the Disclosure being assigned to the Committee. The Chair may apply to the Designated Officer for an extension of time of up to 30 calendar days. A Chair may make multiple applications for extensions, but extensions may be granted at a maximum of 30 calendar days at a time. If an Investigation is anticipated to take more than 5 months from the time that the Disclosure is assigned to the Committee, the Designated Officer will seek consent to extensions from the relevant Funding Agency and the SRCR. The Designated Officer shall inform the Person and those alleged to have caused or contributed to the Breach in writing of any extensions granted. The Designated Officer shall also provide periodic updates to the Funding Agency and SRCR until the Investigation is complete, and the frequency of the periodic updates will be determined jointly by the SRCR and the Designated Officer.

2.32 If in the course of an Investigation:

- (a) the Committee discovers that another Breach may have occurred or that others may have been involved in the Breach, the Chair may apply to the Designated Officer to expand the scope of the Investigation; or
- (b) a subsequent Disclosure is made to the Designated Officer which would most efficiently be dealt with through the same Investigation, the Designated Officer may expand the scope of the Investigation.

2.33 Nothing in these Procedures is intended to prevent the Designated Officer or any other person from taking reasonable and immediate steps, either independently or in exceptional circumstances at the Funding Agency's request, to:

- (a) address a situation dangerous to the health and safety of persons, or likely to result in damage to property;
- (b) protect the administration of University funds, or money received from a Funding Agency, which may include freezing grant accounts, requiring a second authorized signature from an institutional representative on all expenses charged to the Researcher's grant accounts, or other measures as appropriate; and/or

- (c) take any measures reasonably necessary to ensure appropriate supervision and safeguard the welfare of students.

In such a case, the Investigation will still be completed in accordance with these Procedures.

## **Confidentiality**

2.34 Subject to sections 2.35 and 2.36 below, all persons involved in the Investigation (whether as an administrator, a committee member, a witness, or retrieving relevant information or documents) must keep confidential:

- (a) the existence and nature of the Investigation; and
- (b) any information or documentation obtained as a result of the Investigation;

which information may only be disclosed to those who reasonably need to know. Where an individual is unsure of whether they may disclose particular information, they may seek advice from the Chair, the Designated Officer, Human Resources, the University's legal counsel, or the Access and Privacy Office.

2.35 Notwithstanding section 2.34, a person who is alleged to have caused or contributed to a Breach may:

- (a) obtain confidential professional advice from their Representative;
- (b) disclose information to others only to the extent reasonably necessary to gather evidence and make full answer and defense to the allegations; and
- (c) use information obtained independent of the Investigation in any other forum.

2.36 Notwithstanding subsection 2.34, the Designated Officer may distribute the Report(s) and information set out at subsections 2.49 to 2.55.

2.37 The Committee, in conducting its Investigation, will exercise discretion to ensure that individuals participating in the Investigation are only provided such information as is relevant to the Investigation and they may reasonably need to know to be effective witnesses, or in the case of an individual accused of causing or contributing to a Breach, respond to the allegation in accordance with the principles of procedural fairness and natural justice. Individuals participating in the Investigation (including those accused) may not necessarily be provided with all information, documentation, the names of the Person making the Disclosure or other witnesses, or the text of the Disclosure.

2.38 Members of the Committee may be required by the Designated Officer to execute a confidential non-disclosure agreement.

- 2.39 The Chair will advise all persons involved in an Investigation as to their obligations regarding confidentiality, and the protections available to them.
- 2.40 Nothing in this section is intended to prevent the Designated Officer or the Committee from using the services of a confidential administrative assistant or secretary, or from consulting with and obtaining advice, on a confidential basis, from experts relevant to the issue, including academics, auditors, accountants, human resource staff, lawyers, and privacy experts (whether internal or external to the University). Such supporting persons may be invited to attend at interviews, review documentary or physical evidence, or participate in Committee meetings, but will not have any decision making role on the Committee authority.
- 2.41 Nothing in this Procedure is intended to prevent the University from reporting as required by the Funding Agency or SRCR.
- 2.42 The Designated Officer will maintain separate files in regard to each Disclosure or each time advice is sought on a potential Disclosure. Paper files will be secured in a locked location to which only the Designated Officer and his or her confidential assistant have access. Electronic files will be stored in locations with reasonable security, and password access limited to the Designated Officer and his or her confidential assistant. The Committee will turn over their files to the Designated Officer, to be managed on the same basis, once the Investigation has concluded. All files will be maintained in accordance with the University's policies regarding records management. Matters related to a Disclosure or Investigation will not form a part of an individual's personnel or student file except where discipline has been imposed.

### **Protection of Identity**

- 2.43 In order to protect privacy and guard against Reprisals, the University will take reasonable steps to protect the identity of the Person making the Disclosure, the individuals alleged to have caused or contributed to a Breach, and others involved in the Investigation. The identity of those involved in the Investigation will be shared or disclosed only where there is a need to know, or as otherwise permitted or contemplated by these Procedures.
- 2.44 The University (including the Committee, the Chair, and the Designated Officer) cannot guarantee complete anonymity to persons participating in an Investigation, and may be required to disclose identifying information:
- (a) in order to comply with the principles of procedural fairness and natural justice, or a collective agreement, in conducting the Investigation;
  - (b) in order to decide upon and implement discipline, mitigation steps, or remedial measures;
  - (c) in order to implement due diligence to prevent similar or related Breaches in the future;

- (d) in order to comply with requirements of Funding Agencies; or
- (e) in order to comply with legal, regulatory, or contractual obligations.

### **Protection from Reprisal**

- 2.45 A Person making a Disclosure, a witness, a Committee member, or any other person cooperating with an Investigation is entitled to be protected from Reprisal.
- 2.46 An individual or the Chair may complain about an alleged Reprisal to the Designated Officer. The Designated Officer will consider the allegation, and if in his or her opinion the allegation is substantiated, take reasonable steps to remedy the Reprisal. This may include advising any such individuals as the Designated Officer believes necessary to decide upon and implement discipline, mitigation steps or remedial measures pursuant to subsections 2.56 to 2.62.
- 2.47 It is not a Reprisal for the University to implement discipline or take other measures against an individual if:
- (a) the individual has attempted to interfere with or failed to reasonably cooperate with an Investigation;
  - (b) the individual made a Disclosure or allegations in bad faith;
  - (c) the individual has materially breached the Policy or its Procedures; or
  - (d) the individual is otherwise deserving of discipline.
- 2.48 Even where a Person indicates that he or she wishes to withdraw a Disclosure (including for fear of Reprisal or being identified) during an Investigation, the Designated Officer may determine that the issue is important enough that an Investigation must continue.

### **Reports on Investigations**

- 2.49 At the conclusion of the Investigation, the Committee will issue a Report (the "Report") to the Designated Officer.
- 2.50 The Report will contain, at a minimum, the following:
- (a) a summary of the Disclosure and the alleged Breach;
  - (b) a summary of the process and key timelines in the Investigation;
  - (c) a summary of the key evidence obtained through the Investigation, including the response of the individual(s) alleged to have caused or contributed to a Breach;
  - (d) an indication of which key evidence was considered credible and reliable;

- (e) a conclusion as to whether a Breach has or is likely to be committed, including identifying which individuals caused or contributed to the Breach;
- (f) a summary of the reasons for the conclusion; and
- (g) a summary of any remedial measures taken in regard to a Breach (to the date of the Report).

2.51 A Report must be supported by the majority of the members of a Committee. Should a Committee be unable to reach such consensus, the Chair will advise the Designated Officer, who will:

- (a) constitute a new Committee to initiate a new Investigation; or
- (b) abandon the Investigation.

in either case, notifying the same parties as who would normally receive the Report.

2.52 The Designated Officer may request the Chair of the Committee to prepare one or more redacted versions of the Report for the purposes of protecting confidentiality and protecting the identity of persons involved in the Investigation. All redactions will be made in a manner which complies with applicable privacy legislation and these Procedures. The Chair may consult with the Access and Privacy Office or legal counsel in preparing such versions. The redacted versions must, in all respects, be identical to the original except for the redacted portions.

2.53 The Designated Officer will provide an appropriate version of the Report (either in original or redacted form), within 30 calendar days of the conclusion of the Investigation, to:

- (a) all Researcher(s) or other persons who were accused of causing or contributing to a Breach; and
- (b) where the Researcher(s) accused of causing or contributing to a Breach holds or held an academic appointment with the University, the Provost (or designate);

in each case the Report including, at a minimum, the information set out at subsections 2.50 (a), (b), (d), (e), (f), and the evidence provided by the recipient.

2.54 The Designated Officer will provide a summary or an appropriate version of the Report (either in original or redacted form), within 30 calendar days of the conclusion of the Investigation, to:

- (a) the Person making the Disclosure;



- (b) collaborators (including at other institutions) with the Researcher(s) who were accused of causing or contributing to a Breach;
- (c) all such individuals (including external to the University) as the Designated Officer believes necessary to decide upon and implement discipline, mitigation steps, or remedial measures;
- (d) all such individuals as the Designated Officer believes necessary to implement due diligence to prevent similar or related Breaches in the future;
- (e) all such individuals as the Designated Officer believes necessary to protect or restore the reputation of those wrongly accused of causing or contributing to a Breach; and
- (f) any other person required in order to comply with legal, regulatory, or contractual obligations;

in each case the summary or Report including, at a minimum, a summary of any evidence provided by the recipient, and enough information for the recipient to understand the essential nature of the Disclosure and whether or not a Breach was found to have occurred.

2.55 Within 30 calendar days of the conclusion of the Investigation, the Designated Officer will prepare and provide a summary of the Investigation and subsequent steps to any relevant Funding Agency, and/or to the SRCR if required by the Tri-Agency Framework: Responsible Conduct of Research (2016), which summary must include:

- (a) the specific allegation(s) subject to Investigation, including the names of any Researcher(s) alleged to have caused or contributed to a Breach;
- (b) a summary of the Committee's findings and reasons for the findings;
- (c) the process and time lines followed, with reference to the Policy and these Procedures;
- (d) the response of the Researcher(s) alleged to have caused or contributed to a Breach with respect to the Disclosure, Investigation and findings;
- (e) any steps taken by the Researcher(s) to rectify the alleged Breach;
- (f) the Committee's decision as to whether a Breach occurred; and
- (g) subsequent recommendations and actions taken by the University.

but omitting information which is not relevant to the particular Funding Agency, and only including such personal information about individuals participating in the Investigation as is reasonably necessary and material to the Committee's findings.

## Discipline

- 2.56 Upon receipt of the results of an Investigation in which there was a finding of a Breach, a finding that a Reprisal has occurred, or a failure to cooperate with the Investigation, the Designated Officer will advise any such individuals as the Designated Officer believes necessary to decide upon and implement discipline, mitigation steps or remedial measures.
- 2.57 Where the Designated Officer or a Committee finds that a Disclosure was frivolous or vexatious, the Designated Officer will advise any such individuals as the Designated Officer believes necessary to decide upon and implement discipline, mitigations steps or remedial measures.
- 2.58 Discipline may, if found to be warranted, be implemented by an appropriate supervisor, manager, or other disciplinary authority after consulting with the Designated Officer.
- 2.59 Any discipline will be implemented pursuant to and in accordance with the relevant collective agreement, University policies or by-laws, and any finding of a Breach or discipline resulting may be appealed as follows:
- (a) If the Researcher is a student, in accordance with the Student Discipline Bylaw and the Student Discipline Appeal Procedure;
  - (b) If the Researcher is a unionized employee, in accordance with the appropriate grievance process defined by the applicable collective agreement; and
  - (c) If the Researcher is not a student or a unionized employee, by giving notice and submissions in writing to the Designated Officer for forwarding to the RCR Appeal Committee, within 10 working days from the date of receiving the Committee's Report, that clearly explains the grounds of appeal as limited to the following:
    - (i) Failure of the Committee to follow this Procedure;
    - (ii) Failure of the Committee to reasonably consider all factors relevant to the decision being appealed; and
    - (iii) Failure of the Committee to comply with applicable legislation.
- 2.60 Before deciding on or implementing any discipline, mitigation steps or other remedial measures, the disciplinary authority and the Designated Officer must seek advice and guidance from appropriate individuals in the circumstances, which may include:
- (a) in all cases regarding an individual holding an academic appointment, the Provost,

- (b) in all cases regarding an employee, the Associate Vice-President (Human Resources),
- (c) in all cases regarding an undergraduate student, the Vice-Provost (Students),
- (d) in all cases regarding a graduate student, the Vice-Provost (Graduate Education) and Dean, Faculty of Graduate Studies,
- (e) individuals at various levels with relevant supervisory responsibility, such as the manager of an employee, a department head, or the Dean or Director of the relevant Faculty or unit,
- (f) legal counsel, or
- (g) any other individual appropriate in the circumstances.

2.61 Anonymous material may only be considered in a disciplinary decision where:

- (a) It is accompanied by sufficient information to enable the assessment of the allegation and the credibility of the facts and evidence on which the allegation is based, without the need for further information from the anonymous individual;
- (b) It would not violate the principles of procedural fairness and natural justice; and
- (c) It would not conflict with a relevant collective agreement.

2.62 Nothing herein is intended to limit the ability of a Funding Agency to implement its own discipline or penalties as a result of a Breach.

### **Researcher Reputation**

2.63 Where a Report concludes that Researcher(s) or other persons named in a Disclosure were not responsible for a Breach, the Designated Officer shall cause all reasonable steps to be taken to protect or restore the reputation of those wrongly accused.

2.64 The University may publish or cause to be published the name of Researcher(s) found to have caused or contributed to a Breach, only:

- (a) if the findings of the Committee clearly indicate that a Breach occurred, and the Breach was intentional and not the result of an innocent error or oversight; and
- (b) all internal opportunities for grievance or appeal have expired.

## **Informal Resolution**

- 2.65 Notwithstanding anything else in these Procedures, the Designated Officer may, at any time, attempt to facilitate an informal resolution of a concern which could constitute a Breach, so long as:
- (a) The Person(s) making the Disclosure or allegation(s) and the individual(s) alleged to have caused or contributed to a Breach agree to pursue informal resolution;
  - (b) The alleged Breach does not involve a significant financial, health and safety, or other risk; and
  - (c) There is no contractual, legal, or Funding Agency requirement to immediately pursue a more formal process or an Investigation.
- 2.66 The Designated Officer may extend or abridge any timelines, or pause any process or Investigation under these Procedures, in order to allow an opportunity for informal resolution.
- 2.67 Should the Person(s) making the Disclosure or allegation(s) and the individual(s) alleged to have caused or contributed to a Breach fail to reach agreement on how to resolve a concern within a time the Designated Officer deems to be reasonable, the Designated Officer shall cause the matter to move forward appropriately through the other processes set out in these Procedures.

## **Annual Report**

- 2.68 The University will post on its "Office of Research and International" website:
- (a) An annual report of de-identified data regarding the number and types of Breaches found; and
  - (b) Other relevant information which may further the implementation of the Responsible Conduct of Research policy and this Procedure.
- 2.69 The University will report annually to the SRCR on the total number of Disclosures received involving Funding Agency funds, the number of confirmed Breaches and the nature of those Breaches, subject to applicable laws, including privacy laws.

## **Part III Accountability**

- 3.1 The Office of Legal Counsel is responsible for advising the President that a formal review of this Procedure is required.

- 3.2 The President, delegated to the Vice-President (Research and International) is responsible for the implementation, administration and review of this Procedure.
- 3.3 All Researchers are responsible for complying with this Procedure.

#### **Part IV Review**

- 4.1 Governing Document reviews shall be conducted every ten (10) years. The next scheduled review date for this Procedure is October 30, 2027.
- 4.2 In the interim, this Procedure may be revised or repealed if:
  - (a) the Vice-President or President deems it necessary or desirable to do so;
  - (b) the Procedure is no longer legislatively or statutorily compliant;
  - (c) the Procedure is now in conflict with another Governing Document; and/or
  - (d) the Parent Policy is revised or repealed.

#### **Part V Effect on Previous Statements**

- 5.1 This Procedure supersedes all of the following:
  - (a) all previous Board of Governors/Senate Governing Documents on the subject matter contained herein;
  - (b) all previous Administration Governing Documents on the subject matter contained herein; and
  - (c) all previous Faculty/School Council Procedures stemming from the Faculty/School Council Bylaw and academic and admission Regulations and any resolutions on the subject matter contained herein.

#### **Part VI Cross References**

- 6.1 This Procedure should be cross referenced to the following relevant Governing Documents, legislation and/or forms:
  - (a) [Responsible Conduct of Research Policy](#);
  - (b) [Responsible Conduct of Research - Code of Research Ethics Policy](#);

- (c) [Tri-Agency Framework: Responsible Conduct of Research \(2016\)](#);
- (d) [Collective Agreements \(various\)](#);
- (e) [Student Discipline Bylaw](#);
- (f) [Conflict of Interest Policy](#); and
- (g) [Copyright Act, RSC 1985, c C-42](#).