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## DEFINITIONS:

Misconduct	Misconduct in Research and Scholarly Activity includes, but is not limited to, any deviation or breach from the principles outlined in Policy 31.10 and its accompanying Procedures.
Complainant	The Complainant is the person making an allegation of Misconduct in Research and Scholarly Activity; the Complainant may or may not be directly affected by the alleged Misconduct.
Respondent	The Respondent is the person accused by the Complainant of Misconduct in Research and Scholarly Activity.
Representative	A person chosen by the Respondent (or Complainant). In the case of an employee this would be a member of the employee group to which the Respondent (or Complainant) belongs.

## PROCEDURE:

This procedure outlines the process for dealing fairly and expeditiously when an allegation of Misconduct in Research and Scholarly Activity (herein called “an allegation”) has been made. A link to the [Tri-Agency flowchart](#) is available to assist with the process.

### 1. Allegations of Misconduct

Allegations may arise from sources within or outside the university and may be well-founded, honestly erroneous, mischievous, or malicious. Whatever their source, motivation, or accuracy, allegations have the potential to cause great harm to the person accused, to the person making the accusation, to the university and to research and scholarship in general. They therefore require prompt, effective action by the university.

Allegations of Misconduct shall be dealt with in a fair, unbiased and timely manner. All parties shall be advised of the applicable university procedures and the Respondent shall be advised of the allegations made against him or her, and shall be accorded the opportunity to provide a response.

A formal allegation of Misconduct in Research and Scholarly Activity may be made by any member of the Vancouver Island University (VIU) community, or by any other person, normally within six months of the alleged Misconduct. The institution shall, to the extent possible, protect the individual making an allegation in good faith. Allegations of Misconduct or information related to responsible allegations in Research and Scholarly Activity are to be directed in writing to the Vice-President Academic and Provost (the Provost) with an exact copy to the Secretariat on Responsible Conduct of Research (SRCR) if the Research and Scholarly Activity was funded by one of the Tri-Agencies. Allegations shall include all relevant evidence, appropriately documented, and must normally be signed and dated.

If an allegation is incomplete or otherwise improperly documented, the Provost may contact the Complainant and inform him or her of the deficiency. Anonymous allegations will not normally be considered; however, if compelling evidence of Misconduct is received anonymously by the Provost he or she shall initiate the investigation process described below, on the basis of this evidence.

If the Provost is a party to the alleged Misconduct, then the President will assume the responsibilities of the Provost under this procedure.

Subject to any applicable laws, including privacy laws, the Institution shall advise the relevant agency or SRCR immediately of any allegations related to activities funded by the agency that may involve significant financial, health and safety, or other risks.

## 2. Review and Resolution of Allegations

### 2.1 Informal Consultation

Instances of alleged Misconduct in Research and Scholarly Activity may be resolvable through informal consultation. Departments are required to establish mechanisms for such informal resolution. Departments need to recognize and acknowledge that there may be a power imbalance in the relationship between the parties (e.g., between an undergraduate student and senior supervisor) that might prevent a fair process and must take the necessary steps as required to address any imbalances.

If the complaint is not carried beyond this stage, the university shall maintain no written record of the names of the parties, nor of the precise details of the allegation. If the complaint is carried beyond this stage it becomes a formal allegation of Misconduct in Research and Scholarly Activity.

### 2.2. Determination of Investigation

#### 2.2.1 Preliminary Meeting

Upon receipt of an allegation, the Provost or his/her designate, will promptly request in writing an informal meeting with the Respondent. This meeting will be requested within five working days of the receipt of the allegation by the Provost.

Notice of this meeting shall inform the Respondent that an allegation of Misconduct has been received and that the purpose of the meeting is to determine whether an investigation is warranted. It will include a brief summary of the allegation. This notice shall also inform the Respondent of the right to be accompanied by a person of his or her choice in this and any future meetings, hearings or other sessions related to an investigation. If the Respondent is a member of a union (e.g., VIUFA, BCGEU, CUPE) and if the respondent consents, that union will also be promptly notified.

Any statements made at this meeting will be without prejudice and no formal record will be kept of the proceedings of this meeting.

#### 2.2.2 Preliminary Decision

The Provost will decide whether or not an investigation is warranted and so inform the Respondent and the Complainant in writing, normally within 15 working days of receipt of the allegation. If a VIU union was notified as described under step 2.2.1, the union will also be informed of the decision.

- a. If the Provost finds that an investigation is not warranted, the allegation shall be dismissed. See also the notification provisions under [Section 2.8](#).

- b. If the Provost finds that an investigation is warranted, the notice to the Respondent shall enclose a full copy of the allegation and an invitation to respond in writing.

### 2.2.3 Preliminary Action

The institution may take immediate action, if deemed necessary, such as the freezing of funds or requiring a secondary signature on account expenditures or other measures if appropriate, prior to the investigation being completed. The institution shall write a letter to the SRCR confirming whether or not the institution is proceeding with an investigation where the SRCR was copied on the allegation or advised as per [Section 1](#).

## 2.3 The Investigation

Allegations of Misconduct shall be investigated promptly, fairly, judiciously and confidentially. The procedures to be followed are guided by the principle of fairness to all parties. The Respondent and Complainant will have adequate opportunity to know any evidence presented by any party and to respond to that evidence. The purpose of the investigation shall be fact-finding and formulation of a recommendation as to whether Misconduct in Research and Scholarly Activity occurred.

### 2.3.1 Appointment of Investigators

The investigation of allegations of Misconduct is undertaken under the auspices of the Provost by a committee of impartial designates, herein called "the Investigators". The number of Investigators and the expertise they bring to the committee (e.g., legal, financial, statistical, ethical), will be determined by the Provost depending on the specifics of each case.

Normally, the Investigators will be faculty members or hold positions (e.g. Deans) in departments other than those of the parties, and care will be taken to ensure that the Investigators possess the appropriate expertise to fully understand and investigate the allegation. In addition, the investigation committee will include a minimum of one community member who has no current affiliation with the institution. In order to ensure no real or perceived conflict of interest, the Investigators will have no prior or current involvement in the matter under investigation and may not be recent (within six years) collaborators, departmental colleagues, students or supervisors of either the Respondent or Complainant.

### 2.3.2 Investigation Procedure

The investigation is confidential and is governed by the principle of fairness. Within this framework, the Investigators are free to develop procedures and practices, specific to the case under investigation, to collect written and

electronic materials and to conduct hearings, and are not constrained by strict rules of procedure and evidence. Therefore the procedures followed may deviate from those detailed below, where this is necessary to the effective gathering of evidence.

The Investigators may consult expert witnesses and solicit reports from them on the matter under investigation. The Investigators may obtain written materials relevant to the investigation, such as laboratory notebooks, manuscripts, computer files and records of the proceedings of university committees such as the Research Ethics Board and the Animal Care Committee.

Subject only to the need to respect the privacy of third parties, copies of any information received by the Investigators will be provided to the parties for their reply. Copies of replies will be communicated to the other party subject only to the same constraint. Further comments on any reply will be requested only where the reply raises a new matter.

### 2.3.3 Meetings

- a. The investigation may include one or more meetings between the Investigators and the Respondent. The Respondent may have a representative present at such meetings.
- b. The investigation may include one or more meetings between the Investigators and the Complainant. The Complainant may have a representative present at such meetings.

### 2.3.4 Hearing

- a. The investigation may include a hearing. Written notice of a hearing and the procedures to be followed shall be provided to all parties at least five working days in advance.
- b. The two parties to a hearing (i.e., the Complainant and the Respondent) may each have a representative present at the hearing. In exceptional circumstances, the Investigators may permit the Respondent or Complainant to be represented by his/her delegate in his/her absence. The two parties and their representatives may be present throughout the hearing.
- c. Witnesses may be present only when they present their evidence orally; the Investigators may permit witnesses to provide their evidence in writing.
- d. Each of the two parties shall be given the opportunity to ask questions of any witness present at the hearing, but the Investigators shall have the right to disallow questions that are in their opinion inappropriate.

- e. Unless agreed to otherwise by all parties, the hearing shall be held in-camera.

If all parties agree that the hearing shall not be held in-camera, the audio of the hearing shall be electronically recorded to be used only by the Investigators and/or for purposes of appeal. The recording will be treated as confidential to the extent permitted by law.

- f. If the Complainant or Respondent fails to appear before the hearing at the appointed time, the Investigators may, without further notice, proceed in such absence. If there are medical or compassionate reasons for non-appearance, the Investigators must be notified immediately, where possible at least three working days, prior to the scheduled hearing. The Investigators will determine the acceptability of such reasons and whether the hearing should be adjourned.
- g. Evidence will not be given under oath.
- h. The Investigators shall be responsible for the maintenance of an orderly procedure in the hearing.

#### 2.4 Final Decision and Draft Report

Normally within 35 working days of the commencement of the investigation, and after considering all the evidence gathered by him/her or the designate(s), the Provost shall reach a decision and prepare a Draft Report (written), to be sent to the Respondent and the Complainant.

The report shall include:

- a copy of the allegation;
- the written response, if any, of the Respondent;
- the findings of the Provost, as to whether the allegation has been upheld or not, with a statement of the reasons for the finding; and,
- actions to be taken, if any.

The appropriate criterion for a decision is the presence of clear and convincing evidence. If the Provost finds that no Misconduct has occurred and sanctions are not warranted he or she shall proceed to [Section 2.6 Final Report](#).

#### 2.5 Disciplinary Action

Any disciplinary action taken under this policy against a member of a bargaining unit will be governed by the provisions of the relevant collective agreement. Such actions may include, but are not limited to:

- sanctions against a Respondent found to have engaged in misconduct;

- actions to protect or restore the reputation of the Respondent, if wrongfully accused;
- actions to protect a Complainant other than discipline imposed by the institution; and,
- sanctions against a Complainant found to have made an irresponsible or malicious allegation.

#### 2.5.1 Sanctions

Sanctions and recourses will depend on the severity of the offense and may include but are not limited to:

- reprimand, suspension and dismissal in consultation with Human Resources, for employees; or,
- expulsion for students.

In exercising the appropriate recourse, consideration will be given to affected personnel including students, staff, agencies, and community members.

#### 2.5.2 Imposition of Actions or Sanctions

If actions or sanctions are components of the final decision, they will be imposed or taken by the Provost, unless another person is designated to do so by existing university policy, collective agreement, framework agreement or by legislation. In such cases, the report will be transmitted to that other person, as a recommendation for action.

### 2.6 Final Report

When the case is concluded, a Final Report on the outcome will be written by the Provost. The Final Report contents and details will vary depending on whether the report stays within VIU or if an external agency has been involved.

#### 2.6.1 Internal VIU Report.

The internal VIU Final Report will contain:

- a summary of the allegations;
- the specifics;
- the decisions of the Provost; and,
- the final outcome, including sanctions imposed and/or actions taken.

#### 2.6.2 Final Report for an external agency

External Final Reports being prepared for the SRCR or another external agency, subject to any applicable laws, including privacy laws, will include the following information:

- the specific allegation(s), a summary of the finding(s) and reasons for the finding(s);
- the process and time lines followed for the inquiry and/or investigation;
- the researcher's response to the allegation, investigation and findings, and any measures the researcher has taken to rectify the breach; and,
- the institutional investigation committee's decisions and recommendations and actions taken by the Institution.

The Final Report shall not include:

- information that is not related specifically to agency funding and policies; or,
- personal information about the researcher, or any other person, that is not material to the institution's findings and its report to the SRCR or agency.

The Final Report will be sent to the Respondent and the Complainant and will also be submitted to the President within 90 working days of the date that the allegation was originally received by the Provost

## 2.7 Grievances and Appeals

If an affected person believes that the decision of the Provost was reached improperly or disagrees with that decision, a grievance may be filed, following the grievance process applicable to the person. If no such mechanism is in place an appeal must be filed, within 30 working days of the receipt of the Final Report of the President.

## 2.8 Notification

If the Research and Scholarly Activity involved projects funded in whole or in part by one of the national granting agencies, or another funding agency, and Misconduct was found to have occurred, a copy of the Final Report will be transmitted to that agency and the SRCR by the Provost within 30 days of the receipt of the Final Report by the President and within seven months from receipt of the allegation.

2.8.1 The Institution shall prepare a Final Report, as described in [Section 2.6.2](#), for the SRCR or agency on each investigation it conducts in response to an allegation of policy breaches related to a funding application submitted to an agency or to an activity funded by an agency.

2.8.2 Inquiry letters and investigation reports shall be submitted to the SRCR within two and seven months, respectively, of receipt of the allegation by the Institution. These timelines may be extended in consultation with the SRCR if circumstances warrant, and with monthly updates provided to the agency until the investigation is complete.

2.8.3 The institution and the researcher may not enter into confidentiality agreements, or other agreements related to an inquiry or investigation, that would prevent the institution from reporting to the agencies through the SRCR.

If an allegation is dismissed as described under [Section 2.2.2\(a\)](#), or otherwise determined to have been unfounded, and the national granting agency or other funding agency, or the SRCR initiated the request for the inquiry, the Provost will provide the agency and the SRCR with a report detailing the outcome of the allegation within two months of the Institution receiving the allegation. This may be the Final Report or a less formal synopsis of the process and findings (if the allegation is found to be false).

If the Provost determines it to be in the best interest of the university, a summary report, on the investigation of misconduct and its outcome, will be disseminated to persons with a legitimate interest. This report will normally contain no information that would identify the parties by name, unless this action is fully consistent with the final outcome of this case as described in the Final Report.

### 3. Records

- 3.1 Any and all information and records relating to an action under this procedure will be handled by the university in compliance with the British Columbia Freedom of Information and Protection of Privacy Act.
- 3.2 Once a formal investigation has been completed all documents and recordings will be retained for a period of not less than seven years and access within the Vancouver Island University community shall be restricted to the President, Provost, the original Respondent and the original Complainant.

#### Related Policies and Procedures:

[Policy 31.03 VIU Research Ethics Board](#)

[Policy 31.07 Animal Care](#)

[Policy 96.01 Student Academic Code of Conduct](#)

#### References:

Tri-Agency Framework: Responsible Conduct of Research  
Tri-Agency Flowchart

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