

RCR.SOP.001 | RCR Allegation Procedures

Responsible Conduct of Research - Standard Operating Guidelines and Procedures

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1) Purpose

The procedures specified below have been developed with the principles, and their underlying values, as listed in MSVU’s *Policy on Responsible Conduct of Research* (RESO.POL.002) in mind. This document outlines the procedures that shall be taken upon receipt of an allegation of a breach in Responsible Conduct of Research.

2) Scope

The procedures that are outlined in this document apply to any allegation of research misconduct that applies to Faculty, Students or Staff, regarding any research that is conducted under the auspices of MSVU and applies to any research protocol, whether funded or not. Research that is funded by the Tri-Agency Councils have additional RCR procedures as required by the Panel on Responsible Conduct of Research (PRCR) and are included in this document.

3) Definitionsⁱ

- a) **Agencies (or Tri-Agency):** Canada’s three federal granting agencies: 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).
- b) **Allegation:** A declaration, statement, or assertion communicated in writing to an institution or Agency to the effect that there has been, or continues to be, a breach of one or more Agency policies, the validity of which has not been established.
- c) **Complainant:** An individual or representative from an organization who has notified an institution or Agency of a potential breach of an Agency policy.
- d) **Inquiry:** The process of reviewing an allegation to determine whether the allegation is responsible, the particular policy or policies that may have been breached, and whether an investigation is warranted based on the information provided in the allegation.

- e) **Investigation:** A systematic process, conducted by an institution's investigation committee, of examining an allegation, collecting and examining the evidence related to the allegation, and making a decision as to whether a breach of a policy(ies) has occurred.
- f) **Respondent:** An individual who is identified in an allegation as having possibly breached Agency and/or institutional policy.
- g) **Responsible allegation:** An allegation that is based on facts that has not been the subject of a previous investigation.
- h) **Serious breach:** In determining whether a breach is serious, any investigation will consider the extent to which the breach jeopardizes the safety of the public or brings the conduct of research into disrepute. This determination will be based on an assessment of the nature of the breach, the level of experience of the researcher, whether there is a pattern of breaches by the researcher, and other factors as appropriate.

4) Procedure Overview

Allegations of a breach of policy on research/scholarship research misconduct are communicated in writing, signed (optional), dated and directed to the Associate Vice-President, Research (AVPR), or to the Research Ethics Coordinator. Anonymous allegations will be accepted as above. If the AVPR is listed as the Respondent, or has declared a conflict of interest, then the Vice-President Academic and Provost shall appoint a designate. Allegations originating with external agencies, institutions, or individuals in appropriate positions of authority (e.g., journal editors) shall be treated as formal complaints.

In the case of research that is funded by a Tri-Council Agency, an allegation of a serious breach of policy that may involve significant financial, health, safety or other risks shall be reported immediately in writing by the AVPR to the Secretariat on Responsible Conduct of Research (SRCR). In these circumstances involving financial, health, safety or other risks, MSVU may independently, or at the Agency's request, take immediate action to protect the administration of Agency funds, including freezing grant accounts or requiring oversight on expenses charged to the grant account.

5) Procedure Details

a) Phase One (1)

- i) The AVPR, when notified of an allegation, will first undertake to determine whether the allegation of a breach of policy is responsible in that it is a substantial novel allegation made in good faith and without malice, is based on facts which have not been the subject of previous allegations, and which falls within one or more breaches set forth in the MSVU Policy on Responsible Conduct of Research.
 - (1) The AVPR may consult in confidence and without identifying the parties involved, with members of the Committee on Research and Publications (CRP), the University Research Ethics Board (UREB), or other MSVU member at any time during an investigation to determine the particulars of conduct norms and practices of the academic discipline(s) involved and for advice on an appropriate course of action. By virtue of their role on the CRP and UREB, members are bound by a confidentiality agreement.
- ii) Depending on the outcome of the consultation, the AVPR will either invoke approved procedures as specified in Phase 2 below or notify the complainant(s) in writing that the allegation of breach of policy is not considered to be justified or responsible, and that no further action will be taken.
 - (1) In circumstances where the allegation of a breach is considered not to be responsible, a formal letter to the complainant(s) will describe the process by

which such decision was taken and make appropriate reference to policy-informed reasons for the decision. This letter of notification will constitute closure to the file and no further action will ensue.

- iii) The Respondent will be notified of the allegation and informed of the process undertaken to determine whether the allegation is a responsible allegation.
 - (1) Once it is determined that an allegation is responsible, and before initiating the Mount's formal procedures, the Associate Vice-President (Research) will communicate the decision to both the Complainant and the Respondent, and discuss the formal procedures of the investigation to determine the validity and/or resolution of the allegations.
 - (2) If the allegation is judged to be a responsible allegation but not to involve a serious breach of policy, the AVPR will initiate Phase 2 below.
 - (3) In the case of research that is funded by a Tri-Council Agency, once it is determined that an allegation is responsible, if the SRCR was copied on an allegation, the AVPR shall write a letter to the SRCR confirming whether or not the university is proceeding with an investigation.

b) Phase Two (2)

- i) If the allegation is judged to be a responsible allegation and to involve a serious breach of policy, the AVPR will strike an Investigation Committee (IC).
- ii) This Committee will be composed of three (3) members all of whom will be scholars who have the necessary expertise and who are without conflict of interest, real or perceived. At least one member will be external to the University with no current affiliation.
- iii) A Committee Chair shall be designated by the members of the IC.
- iv) The IC will be appointed for, and tasked with, the responsibility of determining whether allegations of a serious breach of policy on scholarly/research conduct are substantiated.
- v) The IC will be provided with copies of all pertinent documents and will be enabled by the University to engage in a thorough and equitable investigation of the alleged breach. This may include interviews with the respondent, the complainant, other individuals that can provide pertinent information to the investigation.
- vi) Once struck the IC will complete its investigation within a reasonable period of time and communicate the findings of its investigation and recommendations in a written report to the Associate Vice-President (Research). This report shall include:
 - (1) a copy of the allegation(s) (signature optional);
 - (2) a summary description of the investigation process;
 - (3) the written response, if any, of the Respondent(s); and,
 - (4) the finding as to whether the allegation(s) has been upheld with a statement of reasons for the finding.
- (5) All documents and materials examined through the course of the Committee investigation will be returned to the AVPR.

c) Phase Three (3)

- i) Should the Committee conclude that the allegation is not substantiated, no reference to the complaint shall be placed or retained in the personnel file of the Respondent(s).
- ii) In cases of unfounded allegations, the AVPR, on behalf of the University, will provide the unjustly accused with a letter that formally acknowledges this outcome and that affirms the meritorious attributes of the accused's reputation and research conduct.

- iii) Should the Committee find that the allegation of a breach in policy on research and scholarly conduct is substantiated and formal action is warranted, the Respondent shall have an opportunity to appeal the decision by recourse through the President's office.
 - (1) The decision to appeal must be communicated in writing to the AVPR within 30 days of the Committee's decision. In the event of an appeal, any formal action related to the outcome of the investigation will be paused until the outcome of the appeal.
 - (2) Should the Committee find that the allegation of a breach in policy on research and scholarly conduct is substantiated, and the Respondent chooses not to appeal the decision, if the Respondent(s) is a member of the bargaining unit represented by Mount Saint Vincent University Faculty Association (MSVUFA), the AVPR shall inform the member's Dean or University Librarian, and Vice-President Academic and Provost of the Committee's findings. In such cases, the provisions of Article 34 of the Collective Agreement shall apply.
- iv) Should the Committee find that the allegation of a breach in policy on research and scholarly conduct is substantiated, and the Respondent chooses not to appeal the decision, if the Respondent(s) is not a member of the MSVUFA, but is either a member of another Mount union or representative organization or not covered within an existing University-representative organization contract (e.g., a contract employee), the AVPR shall inform the Respondent's immediate supervisor and Director, Human Resources, and provide to the Director, Human Resources all material. In the case of unionized employees, relevant Collective Agreement articles shall apply. In the case of non-unionized employees, relevant University policy and procedures shall apply.
- v) Should the Committee find that the allegations of a breach in policy on research and scholarly conduct are substantiated, and the Respondent chooses not to appeal the decision, and If the Respondent(s) is a Mount student, the AVPR shall inform the Registrar and Dean of the student's academic program, and provide to the Dean all materials. In such cases, the Academic Offences Policy and Procedures will apply.

d) Phase Four (4)

- i) In the case of research that is funded by a Tri-Council Agency, once an investigation and appeal, if any, are completed, the University shall prepare a report for the SRCR 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 a Tri-Council Agency, as required by the Tri-Agency Framework: Responsible Conduct of Research (TAF_RCR). Subject to any applicable laws, including privacy laws, each report shall include the following information:
 - (1) the specific allegation(s), a summary of the finding(s) and reasons for the finding(s);
 - (2) the process and timelines followed for the inquiry and/or investigation;
 - (3) the researcher's response to the allegation, investigation and findings, and any measures the researcher has taken to rectify the breach; and
 - (4) the institutional investigation committee's decisions and recommendations and actions taken by the Institution.
 - (5) The report will not include:
 - (a) information that is not related specifically to Agency funding and policies; or
 - (b) personal information about the researcher, or any other person, that is not material to the Institution's findings and its report to the SRCR.

- ii) Inquiry letters and investigation reports shall normally 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.
- iii) The Institution and the researcher shall not enter into confidentiality agreements or other agreements related to an inquiry or investigation that prevents MSVU from reporting to the Agencies through the SRCR.
- iv) In cases where the source of funding is unclear, the institution is compelled to accurately respond to any requests for information or reports from the SRCR.

6. Confidentiality

- 6.1. MSVU is committed to protect the privacy of **Complainant(s)** and **Respondent(s)** as far as is legally and practically possible. Anyone involved in conducting an Inquiry or an Investigation shall sign a privacy and confidentiality agreement.
- 6.2. Complainants will only be identified to the Respondent(s) in cases where the Investigative Committee determines that this information is absolutely necessary for the Respondent(s) to be able to make a full and proper response and defense to the allegations of Research Misconduct, in accordance with procedural fairness.
- 6.3. A Respondent's name and the nature of the alleged Research Misconduct will be kept in strictest confidence and will only be shared on a need-to-know basis within the University, to the fullest extent allowed pursuant to the procedures in this policy and consistent with the University's obligations under the ***Freedom of Information and Protection of Privacy Act (Nova Scotia)***. Complainants will be advised in writing to keep their allegations and the identity(ies) of the Respondent(s) confidential.
- 6.4. Nothing in these provisions shall be construed to interfere with the University meeting its contractual or other reporting obligations to a funding agency.
- 6.5. These provisions for confidentiality will not prevent the University from making a finding of Research Misconduct public, or known to appropriate parties, as determined by the University, where a finding of Research Misconduct has been made pursuant to this policy. (TAF-RCR, Section 4.3.2)

7. Rectifying a Breach

Researchers in breach of an RCR policy are expected to be proactive in rectifying a breach, for example, by correcting the research record, providing a letter of apology to those impacted by the breach, or repaying funds.

8. Appealing a Finding of Research Misconduct

The respondent may appeal the decision of the internal investigation committee on any of the following grounds:

- 8.1.** That there existed material circumstances relating directly to the case of which the reviewing committee was not aware;
- 8.2.** That procedural irregularities occurred in the review process, which were of such a nature as to cause reasonable doubt as to whether the Committee would have reached the same conclusion had the irregularities not occurred; and
- 8.3.** That there is demonstrable evidence of prejudice, bias, or inadequate review.

9. Applicable References

- a. *Tri-Agency Framework: Responsible Conduct of Research* (2016). Secretariat for the Responsible Conduct of Research: Government of Canada.
<https://rcr.ethics.gc.ca/eng/framework-cadre.html#a7-B> (Retrieved June 4, 2020)
- b. MSVU Policy on Responsible Conduct of Research (RESO.POL.002)

ⁱ *Tri-Agency Framework: Responsible Conduct of Research* - <https://rcr.ethics.gc.ca/eng/framework-cadre.html#a7-B> (Retrieved June 4, 2020)