

## Investigative Committee Terms of Reference

**Membership:** The Vice-President (Research) appoints an Investigative Committee (the “**Committee**”) of three people qualified to investigate the circumstances of the Allegation of Research/Scholarly Misconduct. *Normally*, the Committee will be made up of Members of the University community. No one from the department or unit where the Respondent works or from a committee on which the Respondent serves, nor anyone who may have a conflict of interest, will be on the Committee. When the Allegation concerns research funded by CIHR, NSERC or SSHRC, the Committee will include one external person who has no current affiliation with the University. The Vice-President (Research) will assign the role of “Chair” to one of the Committee members.

**Jurisdiction:** GOV-022-025 – Research/Scholarly Misconduct

**Governance:** The role of the Committee is to determine whether Research/Scholarly Misconduct has occurred and if so, the seriousness of the Research/Scholarly Misconduct. The Committee will undertake a formal investigation following the principles of natural justice and procedural fairness. It will examine and have access to all materials relevant to the investigation.

**Definitions:** Within these Terms of Reference, “Complainant” refers to the person who has made an allegation of Research/Scholarly Misconduct; “Respondent” refers to the person who is the subject of a formal investigation of Research/Scholarly Misconduct, “Assigned OOS Investigator” refers to the out-of-scope designate assigned by the Vice-President (Research) to investigate an allegation of Research/Scholarly Misconduct.

**Resource:** University Secretariat (Executive Director, University Governance)

### Procedures:

#### General:

1. While the formal investigation may include a formal hearing, the formal investigation process should allow flexibility for the Committee to consult, clarify and investigate the Allegations as each situation requires, and as the Committee deems appropriate.
2. The University Secretariat shall act as a resource to the Committee in its investigation (including any formal hearing conducted by it).

#### Review Stage:

1. The Vice-President (Research) will provide the Committee with the following documents (the “**Charge Documents**”):
  - a. the formal charges underlying the Allegation (including a copy of the assigned OOS Investigator’s Informal Inquiry report to the Vice-President (Research)); and
  - b. a copy of all relevant materials assembled by the Assigned OOS Investigator in connection with the informal inquiry.
2. Concurrently with step 1:

- a. The Vice-President (Research) will provide a copy of the Charge Documents to the Respondent and advise the Respondent that a Committee has been appointed, including the names of the Chair and other members of the Committee; and
  - b. The Vice-President (Research) will provide a copy of the Charge Documents to the University Secretariat and advise the University Secretariat that a Committee has been appointed, including the names of the Chair and other members of the Committee.
3. The Committee will review the Charge Documents and will meet in order to determine:
    - a. an appropriate date for a hearing; and
    - b. whether the Committee has any specific matters that it wishes to be dealt with or clarified in the submissions to be made by the Respondent or the Assigned OOS Investigator (the “**Submission Matters**”).
  4. The Chair will communicate with the University Secretariat with respect to setting a date for the hearing (which generally shall be approximately one month from the date that the Committee is appointed). If the Committee has any Submission Matters, the Committee shall advise the University Secretariat of the Submission Matters in writing.

#### **Hearing Preliminary Matters:**

1. Each of the Respondent and the Assigned OOS Investigator may have a representative or legal counsel attend with them and assist them in connection with the formal investigation and any hearing.
2. The University Secretariat will provide written notice of the date scheduled for the hearing (the “**Hearing Date**”) at least four (4) weeks in advance of the scheduled Hearing Date to each of the Respondent and the Assigned OOS Investigator (with a copy to the Committee). If the Committee has provided any Submission Matters to the University Secretariat, the University Secretariat will also provide the Submission Matters to the Respondent and the Assigned OOS Investigator.
3. Not less than two (2) weeks prior to the Hearing Date, the Respondent shall provide to the University Secretariat a detailed written submission responding to the Allegation and the formal charges, along with:
  - a. a copy of all supporting documents;
  - b. the names of any witnesses the Respondent intends to call at the hearing, and a summary statement of the evidence to be presented by each witness; and,
  - c. the name of the Respondent’s representative (if any);

(collectively, the “**Respondent’s Submission**”).

The University Secretariat will distribute the Respondent’s Submission to the Committee and the Assigned OOS Investigator.

4. The Assigned OOS Investigator may provide a written response to the Respondent’s Submission (the “**Assigned OOS Investigator’s Response**”) not later than one (1) week prior to the Hearing Date, which response shall include:
  - a. the names of any witnesses the Assigned OOS Investigator intends to call at the hearing, and a summary statement of the evidence to be presented by each witness; and,

- b. the name of the Assigned OOS Investigator's representative (if any).

The University Secretariat will distribute the Assigned OOS Investigator's Response to the Committee and the Respondent.

5. Following receipt by the Committee of the Respondent's Submission and the Assigned OOS Investigator's Response, the Chair of the Committee may call a pre-hearing meeting with the Committee to discuss the materials, the process for the hearing, and any questions the Committee will want to have addressed or clarifications that the Committee may require through the hearing process.
6. If, as a result of anything contained in the Respondent's Submission and the Assigned OOS Investigator's Response, the Committee determines that further information may be required in order to deal with the Allegation (including any expert evidence) the Chair of the Committee has the discretion to postpone the hearing as required in order for such information or evidence to be obtained.

#### **Hearing Attendees:**

1. The Committee including any support staff required for duties such as recording (*normally provided by the University Secretariat*).
2. The Respondent (and their representative, if requested).
3. The Assigned OOS Investigator (and their representative, if requested).
4. Witnesses or experts to be called by the Respondent, the Assigned OOS Investigator or the Committee.

#### **Hearing:**

1. The hearing is not open to the public. The University Secretariat is responsible for arranging, making and storing an audio recording of the hearing. The recording is only available to the Committee during their deliberations to review the evidence provided at the hearing. Once the Committee has provided its final report to the Vice-President (Research), the recording will be included as part of the official record held by the University Secretariat.
2. The Assigned OOS Investigator (or their representative) will present the findings of their informal inquiry with respect to the Allegation/formal charges, and may call witnesses or experts to testify.
3. The Respondent (or their representative) may ask questions of the Assigned OOS Investigator and their witnesses or experts.
4. The Respondent (or their representative) will present their case and may call witnesses or experts to testify.

5. The Assigned OOS Investigator (or their representative) may ask questions of the Respondent and their witnesses or experts.
6. Committee members may ask questions of the Respondent, the Assigned OOS Investigator and any witnesses or experts. The Respondent and the Assigned OOS Investigator, not their representatives, will answer questions posed by the Committee.
7. Both the Assigned OOS Investigator and the Respondent (or their representative) shall have an opportunity to summarize their cases at the conclusion of testimony.
8. All parties are asked to state their case concisely and to keep questioning of witnesses to relevant facts. The Chair may set a time limit for testimony if already-known facts are being reiterated.

**Witnesses/Experts:**

1. The testimony of witnesses must be in person (so that the party opposite and the Committee have the ability to question the witness). Affidavit evidence of witnesses will not be permitted at a hearing.
2. Witnesses and/or experts shall be called into the hearing by the Chair one at a time. Once the testimony has been given, the members of the Committee may ask questions of the witness or expert. The witness or expert shall then leave the hearing.
3. If the Committee believes that it needs an independent / impartial expert opinion (the “**Expert Opinion**”) the Committee may seek such an opinion. The Expert Opinion shall be provided to each of the Assigned OOS Investigator and the Respondent, who may provide a response to the Committee, in writing, within seven (7) days of receiving the Expert Opinion. The Expert Opinion and the Assigned OOS Investigator’s and the Respondent’s responses thereto may be considered by the Committee in its deliberations.

**Deliberations and Decision:**

1. The deliberations of the Committee will occur in camera, after the parties and their representatives and witnesses have withdrawn. These deliberations are confidential.
2. The Committee may request information from the parties following the hearing but prior to a decision being made. All requests for information, and all responses to such requests, will be administered through the University Secretariat in writing, and will be shared with the Respondent and the Assigned OOS Investigator by the University Secretariat.
3. The decision of the Committee and the reasons for the decision relating to the Allegation of Research/Scholarly misconduct (collectively, the “**Committee Report**”) will be submitted in writing by the Chair to the Vice-President (Research) (with a copy to the University Secretariat). The Committee shall provide the Committee Report in a timely manner. The Committee Report will include:
  - a. a summary of the Allegation and the Respondent’s response,
  - b. a summary of the relevant evidence,
  - c. the Committee’s analysis of the relevant evidence;

- d. the Committee's findings with respect to the Allegation, with supporting reasons;
  - e. if the Committee determines that Research/Scholarly Misconduct has occurred, an assessment of the severity of the misconduct and any mitigating factors; and,
  - f. any other recommendations that the Committee feels are appropriate in the circumstances of the case.
4. As soon as practicable, but no less than fifteen (15) working days after receipt of the Committee Report, the Vice-President (Research) shall decide whether or not to accept some or all of the Committee's findings.
  5. The Vice-President (Research) will provide a copy of the Committee Report to the Respondent, and to the Assigned OOS Investigator no less than seven (7) working days after it is received.
  6. When the Allegation concerns research funded by CIHR, NSERC or SSHRC the Vice-President (Research) will prepare a report for the Secretariat on Responsible Conduct of Research in accordance with requirements of the Tri-Agency Framework: Responsible Conduct of Research.
  7. All materials and records provided to the Committee, and any documents created by the Committee (collectively, the "**Records**") will be held in confidence and once the Committee Report has been provided to the Vice-President (Research), all such Records will be provided to the University Secretariat by each Committee Member for destruction. Pursuant to the Policy, the University Secretariat shall retain an official file with respect to the formal investigation proceedings.
  8. Completion of the formal investigation process should normally not involve the elapse of more than three (3) calendar months from the date the Allegation is first received by the Assigned OOS Investigator. Any significant extension of the time frame should be justified by the Vice-President (Research).