



Classification Number	<i>To be assigned by Policy Office</i>
Parent Policy	Code of Ethical Conduct Policy
Framework Category	Legal, Compliance and Governance
Approving Authority	Audit and Finance
Policy Owner	General Counsel
Approval Date	DRAFT FOR CONSULTATION
Review Date	
Supersedes	

UNIVERSITY INVESTIGATION PROCEDURES

PURPOSE

1. The purpose of these Procedures is to establish a consistent process for conducting an investigation of a disclosure under the Safe Disclosure Policy or a report of a violation of the Ethical Conduct Policy by a University Employee.

DEFINITIONS

2. For the purposes of these Procedures the following definitions apply:

“Appellant” means a Respondent that has submitted a notice of appeal under these Procedures.

“Conflict of Interest” means a situation where an Employee is in a position to use authority, research, knowledge or influence for personal gain, or to benefit a Related Person or external organization to the detriment of the University.

“Disclosure” means a written report made by a University Member under the Safe Disclosure Policy concerning any actual or perceived Improper Activity where the report is:

- Made to a University Recipient;
- Based on a reasonable belief or information that the Improper Activity has occurred, or could potentially occur; and
- Not malicious, frivolous, vexatious and/or knowingly false.

“Employees” means individuals, including students, who are employed by the University or holding an appointment with the University including paid, unpaid and/or honorific appointments.

“Report” means a written report made by a University Member under this Procedure concerning any actual or perceived Improper Activity where the report is:

- Made to a University Recipient;
- Based on a reasonable belief or information that the violation has occurred, or could potentially occur; and
- Not malicious, frivolous, vexatious and/or knowingly false.

“Improper Activity” means an act of misconduct that a University Member knew or should reasonably have known to be wrong or inappropriate. Improper Activity includes, but is not limited to:

- Significant financial misconduct or mismanagement;

- Theft, fraud, and/or misappropriation of University assets;
- Significant contravention of University policies and procedures;
- Violation of the University's legal or regulatory obligations;
- Forgery, falsification, and/or inappropriate alteration or destruction of University records (paper and electronic);
- Making a disclosure that is not in Good Faith.
- The act of concealing, or attempting to conceal, Improper Activity, and/or knowingly directing or assisting in the commission or concealment of Improper Activity, will also be considered a form of Improper Activity under this Policy.

"Innocent Violation" means an Improper Activity that is inadvertent or where the University Member could not reasonably be expected to have known the Improper Activity is a form of misconduct.

"Investigator" means an individual appointed to investigate by a Designated Decision-Maker.

"Personal Information" means information about an identifiable individual, as defined in s. 2 of FIPPA, as amended from time to time.

"Reprisal" refers to a retaliation, coercion, dismissal, threats or intimidation of anyone who in good faith: submits a Report, or participates in a related investigation under this procedure.

"Reporting Party" means a University Member who makes a Report.

"Respondent" means an Employee named as a subject of a Report.

"University Recipient" means the:

- Appropriate supervisor or manager;
- Organizational Area Vice-President, where the disclosure may implicate the appropriate supervisor or manager.

SCOPE AND AUTHORITY

3. These Procedures apply to all Employees of the University.
4. Under the Policy Framework, where there is a conflict between these Procedures and an existing collective agreement between the University and one of its bargaining units, the collective agreement will prevail.
5. Reports of conduct that would constitute harassment, violence, sexual violence, or discrimination will be investigated and addressed under the Policy Against Harassment, Violence and Discrimination in the Workplace or the Harassment and Discrimination Policy, as applicable.
6. The University Secretary and General Counsel, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of these Procedures.

PROCEDURES

RECEIVING REPORTS OF VIOLATIONS OF THE CODE OF ETHICAL CONDUCT POLICY

7. Making a Report

- 7.1.** Any individual who has evidence of a violation of the Code of Ethical Conduct Policy may make a Report to a University Recipient. Where the violation involves the President or an organizational area Vice-President, the Report should be submitted in accordance with the Safe Disclosure Policy and Procedure.
- 7.2.** A Report will be provided in writing, signed, and will include a brief summary of the evidence or basis for the belief that a violation has occurred, as well as the names of the University Members involved.
- 7.3.** Reports may be submitted anonymously noting that the ability to investigate or address a Report may be hindered by a Complainant remaining anonymous.

8. Receiving a Report

- 8.1.** Upon receipt of a Report, a University Recipient will forward it to the appropriate organizational area Vice-President. The Vice-President will determine, in consultation with others as necessary, whether the allegation, if true, would constitute a violation of the Code of Ethical Conduct Policy.
- 8.2.** If the allegation set out in the Report would not, if true, amount to a violation, the Vice-President will respond to the Reporting Party in writing, usually within 60 days, advising that the Report has been reviewed, and that the information provided does not support an allegation of a violation of the Code of Ethical Conduct Policy.
- 8.3.** The Reporting Party will also be advised that the Vice-President may reconsider the Report if additional and significant information is provided. If there is another process or resource at the University that would be more appropriate for the subject matter of the Report, the Reporting Party will be advised of this alternative process.

9. Decision to Proceed with an Investigation

- 9.1.** In cases where a Report would, if true, constitute a violation of the Code of Ethical Conduct Policy, the Vice-President will decide whether to proceed with a formal investigation, or to attempt an informal resolution. Where the alleged conduct is serious, where there are indications of a repeated course of conduct, or where the alleged conduct is considered Improper Activity, an informal resolution is not appropriate.
- 9.2.** If a University Recipient decides to proceed with an investigation, they will consult with the Senior Dispute Resolution Officer and Human Rights Advisor in the Office of the University Secretary and General Counsel who will appoint an Investigator.

CONDUCTING AN INVESTIGATION UNDER THE CODE OF ETHICAL CONDUCT POLICY AND THE SAFE DISCLOSURE POLICY

10. Investigation Process

- 10.1.** Under no circumstances will an investigation be conducted or overseen by an individual who was directly involved in the events in issue, or by an individual whose involvement would give rise to a Conflict of Interest or a perception of a Conflict of Interest. No individual who was involved in or who has a personal stake in the events in issue will be involved in an investigation (other than as a witness).
- 10.2.** In addressing a Report, the Investigator will establish an investigation process that is appropriate in the circumstances and that maintains the procedural rights granted in collective agreements to any individuals involved in the Report. This process will be summarized in written form and distributed to the Respondent. At a minimum, any investigation will provide a reasonable opportunity for the parties to understand the allegations, and to submit relevant information.

11. Determination and Corrective Action

- 11.1.** The Investigator will be charged with providing an opinion, based upon a review of the totality of the evidence (including the Respondent's evidence and submissions), whether misconduct occurred and whether the misconduct is considered Improper Activity or an Innocent Violation, based on a balance of probabilities. The Investigator will ensure that the results of the investigation are brought to the attention of, and reviewed by, the Vice-President.
- 11.2.** Human Resources will advise the Vice-President with respect to appropriate corrective measures, if any, to be taken, including measures aimed at preventing Reprisal, where appropriate. Corrective measures may include non-disciplinary actions (*e.g.* education) or disciplinary measures (*e.g.* a written reprimand, a suspension or termination).
- 11.3.** The final determination regarding the outcome of the investigation and the recommended corrective actions will be made by the Vice-President, or in the case of a Disclosure, in accordance with section 7.4 of the Safe Disclosure Procedure.
- 11.4.** Employees that are members of a bargaining unit will have any corrective measure(s) imposed in accordance with applicable collective agreement requirements.
- 11.5.** Once a decision has been reached, the Vice-President will notify the Respondent, in writing, of its decision, including reasons (if any) and recommendations (if any) with respect to the violation. The written decision will clearly indicate any corrective measures.
- 11.6.** The investigation and review process will be conducted expeditiously. All reasonable attempts will be made to protect the privacy of the Reporting Party and Respondent at all material times during and after the review process.

12. Confidentiality

- 12.1.** Information collected under this Procedure will be used only for the purposes of administering this Procedure and related processes, and may be disclosed only on a

need-to-know basis to the extent required to fulfill the University's legal obligations. Personal Information collected, used and disclosed under this procedure will otherwise be kept confidential.

- 12.2.** All individuals involved in this Procedure will be advised of their duty to maintain the confidentiality of all information disclosed to them in this Procedure, including any Personal Information disclosed to them.
- 12.3.** Except as required under these procedures, or as otherwise required by law, investigation reports created under this procedure will not normally be disclosed or produced to a Reporting Party, Respondent or witness. Reporting Parties, and Respondents who are Employees, will, however, be advised of the outcome of the investigation, and the corrective actions if any.

13. Right to an Advisor/Support Person

- 13.1.** Respondents who attend an interview in an investigation under this procedure may be accompanied by one advisor/support person. The role of an advisor/support person is to assist the individual by providing procedural information, to ask questions regarding the investigation process and to provide moral support. Individuals who choose to attend an interview with an advisor/support persons will choose their own advisor/support person and will notify the Investigator of their advisor/support person's name at least 24 hours prior to the interview. In the case of an Employee who is a member of a bargaining unit, the advisor/support person may be a union representative. During the interview, an advisor/support person will be permitted to speak and ask questions regarding the investigation process, but will not be permitted to make legal submissions or arguments on behalf of the individual, or to disrupt the interview. In any event, individuals who are being interviewed must answer the interview questions themselves.

14. Appeal

- 14.1.** The Respondent has a right to appeal the decision and/or disciplinary penalties imposed by the Vice-President under one or both of the following grounds:
 - a)** New evidence exists that was not available to the Respondent at the time of the original decision (through no fault of their own) that, if considered would likely have altered the outcome of the decision; or
 - b)** There was a fundamental flaw in the investigation or decision-making procedures that led to the decision, resulting in a lack of Administrative Fairness.
- 14.2.** A notice of Appeal must be submitted in writing, and must set out the specific grounds on which the appeal is being made and provide a summary of evidence in support of these grounds to the Senior Dispute Resolution Officer and Human Rights Advisor in the Office of the University Secretary and General Counsel within ten (10) Working Days of the date of the Decision.
- 14.3.** The Senior Dispute Resolution Officer and Human Rights Advisor will appoint an Appeal Officer to conduct the appeal.

- 14.4.** If, after considering the written submissions, the Appeal Officer finds that the case does not meet the grounds for appeal set out in Section XX, the Appeal Officer will dismiss the Appeal or Review within five (5) Working Days of receipt of the Appeal. Otherwise an appeal hearing will be conducted.

15. Appeal Hearing

- 15.1.** Appeal hearings will normally be conducted in writing as follows:

- a)** The Appeal Officer will provide a copy of the notice of appeal and any new supporting evidence to the Vice-President, or delegate.
- b)** The Vice-President, or delegate will have ten (10) Working Days to provide the Appeal Officer with a written response to the Appeal. A copy of the written response will be provided to the Appellant.
- c)** The Appellant will have ten (10) Working Days to provide the Appeal Officer with a final written response. A copy of this response will be provided to the Vice-President, or delegate.
- d)** The Appeal Officer will normally issue a written decision to the Appellant and the Vice-President, or delegate within ten (10) Working Days of their receipt of the Appellant's final written response. The decision will provide the reasons in support of the decision.

- 15.2.** The time limits specified under these procedures may be extended by the Appeal Officer at the request of the Appellant or the Vice-President, or delegate, if reasonable grounds are shown for the extension.

16. Protection from Reprisal

- 16.1.** Any Reprisal for making and pursuing a Report under this Procedure is itself considered a breach of the Code of Ethical Conduct Policy. Any individual experiencing Reprisal may file a Report, and that Report will be processed under this procedure.

MONITORING AND REVIEW

- 17.** These Procedures will be reviewed as necessary and at least every three years. The University Secretary and General Counsel, or successor thereof, is responsible to monitor and review these Procedures.

RELEVANT LEGISLATION

- 18.** Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c F. 31

RELATED POLICIES, PROCEDURES & DOCUMENTS

- 19.** Ethical Conduct Policy
Harassment and Discrimination Policy and Procedures

Policy Against Violence, Harassment and Discrimination in the Workplace, and related procedures

Fair Processes Policy

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