



# THE UNIVERSITY OF WINNIPEG

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**PROCEDURE TITLE:** **Responsible Conduct of Research and Scholarship Procedures**

**EFFECTIVE DATE:** **March 19, 2018**

**APPROVAL BODY:** **Board of Regents**

## **PROCEDURE PURPOSE**

The purpose of these Procedures is to set forth the specific actions that will be taken to implement the Responsible Conduct of Research and Scholarship Policy.

## **RESPONSIBILITY**

The Vice-President, Research and Innovation, is responsible for the development, administration and review of these Procedures.

## **KEY DEFINITIONS**

The following definitions apply to terms as they are used in these Procedures:

- **Complainant** – an individual or representative from an organization who has notified an institution, Agency, or other funding body of a potential breach of this policy.
- **Initial 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.



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- **Investigation Committee** – a group of individuals appointed by the Vice-President, Research and Innovation tasked with examining an Allegation, collecting and analysing evidence, and determining whether a policy Breach has occurred.
- **Respondent** - individual(s) who has been alleged of a potential breach of this policy.

All Definitions in the Responsible Conduct of Research and Scholarship Policy are incorporated into these Procedures and shall apply as fully as if they had been set out verbatim herein.

## PROCEDURE ELEMENTS

### **Confidentiality**

All individuals with access to information regarding a potential violation of this Policy will protect the confidentiality of information related to the potential violation to the fullest extent possible. If the Allegation is substantiated, the University reserves the right to use or disclose information in accordance with the *Freedom of Information and Protection of Privacy Act*, which may include disclosing the discipline, if any, imposed on Community Members.

### **Identification of Misconduct in Research and Scholarship**

These Procedures apply to misconduct in:

- a) Research, scholarly and artistic work
- b) Training in research, scholarly and artistic activity
- c) Related research, scholarly, and artistic activities



Individuals who hold what they believe to be well-founded suspicions of misconduct in research and scholarship by a Community Member(s) are encouraged to seek an explanation of the suspicion from the person(s) involved, in order to identify and/or correct misunderstandings. If, following such explanations, misconduct is still believed to have occurred, the matter should be dealt with as follows:

## **1. Reporting Allegations**

- 1.1.** It is the responsibility of all Community Members to report instances of alleged Breaches of this Policy.
- 1.2** A report of an alleged Breach of the Policy should be made to the Vice-President, Research and Innovation, in writing and signed by the Complainant. The Allegation shall contain details of the alleged misconduct including the name of the Respondent and should be accompanied by such supporting evidence as may be available.
- 1.3** The University shall take such steps as may be necessary and reasonable to:
  - a) Protect the reputation and credibility of Community Members wrongfully accused of Breaching the Policy.
  - b) Protect the rights, positions and reputations of Community Members who in good faith make Allegations of Policy Breaches, or those who the University calls as witnesses in an Inquiry or Investigation.
- 1.4** In the case where a graduate or undergraduate student becomes involved as an interviewee during an Investigation or has made an Allegation of Breaching the Policy against his/her



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supervisor or instructor, the Vice-President, Research and Innovation shall give due consideration to any potential effects that the student's role in the case may have on the student's academic program. The Vice-President, Research and Innovation shall, in consultation with the student, make arrangements through the appropriate Dean to ensure continuity of the students' academic program, to ensure that work and/or examinations are evaluated by a disinterested third party and, if necessary, for the student to be removed from the environment of the Respondent.

## **2. Notice, Inquiry & Investigation**

When applying these Procedures to a specific case, the actions of persons acting on behalf of the University and others involved in the proceedings should reflect the following:

- a) The importance of the University's maintaining standards consistent with the highest traditions of research and scholarship.
- b) The importance of academic freedom.
- c) The University's responsibilities to the public, to the scientific and scholarly community, and to the institutions, and agencies with which the University is affiliated or has contractual arrangements.
- d) The necessity for the University to protect the rights and reputations of all individuals, including the Respondent and the Complainant.
- e) The necessity for the University to resolve Allegations with care and objectivity, with ample opportunity for all interested parties to be heard, and as promptly as practicable.
- f) The opportunity of all Community Members interviewed to be accompanied by a representative or observer of their choice



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including but not limited to a union representative when interviewed pursuant to these Procedures.

Anonymous Allegations will not normally be considered. An anonymous Allegation will be considered if 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 complainant. In such a circumstance, the Vice-President, Research and Innovation, may initiate the actions as per Section 2.1 of these Procedures. If the Vice- President, Research and Innovation is considered part of the alleged misconduct, the President and Vice-Chancellor will assume the role of the Vice-President, Research and Innovation.

The University may independently, or at the request of the funding body involved, take immediate action to protect the administration of funds. Immediate action could include, but is not limited to, freezing grant accounts, requiring a second authorized signature from an authorized institutional representative on all expenses charged to the researcher's grant accounts, or other measures as appropriate.

If the Allegation is judged by the Vice-President, Research and Innovation or the assigned academic replacement to be frivolous or otherwise lacking in substance, he or she may consider whether action against the Complainant as per Section 3.2.4 of these Procedures is appropriate.

If the Allegation is judged not to be frivolous or otherwise lacking in substance, the Vice-President, Research and Innovation or the assigned academic designate shall proceed as outlined below.

Where the Allegation is related to conduct that occurred at another institution (whether as an employee, a student or in some other



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capacity), the Vice-President Research and Innovation shall 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 Vice-President Research and

Innovation must communicate to the complainant which institution will be the point of contact for the Allegation.

## **Notice of Allegation**

**2.1** Upon receipt of the written Allegation from either internal or external sources and normally within five (5) working days, the Vice-President, Research and Innovation shall notify the Respondent(s) that an Allegation has been made. The Respondent(s) shall be informed of the contents of the Allegation, be provided opportunity to review the materials that are the subject of the Allegation, and be provided with transcription of the written Allegation from which all information identifying the Complainant has been removed. The Respondent(s) shall be invited to reply within five (5) working days. Whether or not a reply is received, the Initial Inquiry shall continue.

**2.2** Subject to any applicable laws, including privacy laws, the University shall advise the relevant Tri-Agency or SRCR immediately of any Allegations related to activities funded by the Tri-Agency that may involve significant financial, health and safety, or other risks. Notification of Allegations to other funding bodies shall be consistent with those bodies' policies.



## **Initial Inquiry**

**2.3** The Vice-President, Research and Innovation shall, normally within five (5) working days of receipt of the Allegation and in consultation with the relevant Dean, review the Allegation(s) to determine whether:

- the matter is within the jurisdiction of the University (i.e., involving a Community Member);
- the Allegation(s) are within the scope of the Policy; and
- the Allegation(s) establishes a *prima facie* case of a Breach of the Policy.

**2.4.** Normally, the Initial Inquiry shall be completed within twenty (20) working days of an Allegation being made. If the Inquiry takes longer than twenty (20) working days to complete, an interim report of progress to date and an estimated date of completion shall be prepared by the Vice-President, Research and Innovation at twenty (20) working days. The written report of the Initial Inquiry shall include documentation of the reasons for exceeding the twenty (20) working day period. This written report shall be retained as part of the full documentary record of the Allegation.

**2.5** A ***confidential*** written report of the Initial Inquiry shall be written by the Vice-President, Research & Innovation and shall include a statement of reasoning, an opinion as to whether or not the Allegation meets the foregoing criteria, and a conclusion as to whether or not an Investigation is warranted.

**2.6** If the foregoing criteria are not met:

**2.6.1** The Vice-President, Research & Innovation will advise the Complainant that the matter will not proceed and the reasons therefor. The Vice-President, Research &



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Innovation may recommend other problem-solving options or refer the Complainant to other University services or resources.

**2.6.2** Whenever an Investigation is reported not to be warranted, documentation of the Initial Inquiry in sufficient detail to permit a later assessment of the reasons for determining that an Investigation was not warranted shall be rendered for safe keeping to the Vice-President, Research and Innovation in accordance with the University Records Policy for a period of seven (7) years.

**2.6.3** If the Respondent(s) admit(s) guilt but the Initial Inquiry reports that further Investigation is not warranted, the University shall act as described in Section 3.1. Otherwise, the University shall act as described in Section 3.2.

**2.7** If the foregoing criteria are met:

**2.7.1** If the Initial Inquiry finds any indication of possible Breach, the Vice-President, Research and Innovation and a Dean will immediately consult the President who will, in turn, determine what further action to take, including contacting the external funders and the appropriate authorities.

**2.7.2** The Respondent(s) shall receive a copy of the report of the Initial Inquiry and have the opportunity to add written comments. The Complainant(s) shall be advised in writing of the conclusions of the Initial Inquiry.

**2.7.3** The Vice-President, Research and Innovation shall, normally within ten (10) working days of issuing the report of the Initial Inquiry, appoint an Investigation Committee to conduct an Investigation.





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**2.7.4** The report of the Initial Inquiry and all information gathered in the Inquiry shall be forwarded to the Investigation Committee.

**2.8** The University shall write a letter to the relevant funding body confirming whether or not the University is proceeding with an Investigation where the funding body was copied on the Allegation or advised as per Section 2.2 within forty (40) working days of the received Allegation. If a Breach is confirmed in the Initial Inquiry stage (as described in Section 2.6.3), reporting requirements outlined in Section 1 apply.

## **Investigation**

**2.9** The Investigation Committee shall consist of three (3) impartial faculty members, recognized to be active in research and scholarship who are appointed by the Vice-President, Research and Innovation and one (1) external member who has no current affiliation with the University. No more than two (2) of the faculty Investigation Committee members shall be from the same general academic area as the Respondent(s). No more than one (1) of the faculty members may be from the same Department as the Respondent(s). As well, at least one (1) Faculty Investigation Committee member shall be from a different general academic area (i.e. natural sciences, social sciences, humanities) than the Respondent(s). Representation from women, members of racialized communities, Indigenous people, and people with disabilities shall be considered when constituting the Investigation Committee. The Investigation Committee may be assisted by a confidential secretary excluded from a bargaining unit. The Investigation Committee shall not include the Vice-President, Research and Innovation, the Dean involved in the Inquiry, nor any person whose participation may place them in a Conflict of Interest.



Investigation Committee members will be required to provide a written Conflict of Interest statement prior to beginning their service on the Committee.

**2.10** Where the Allegation is against a member of staff or a graduate or undergraduate student, the Vice-President, Research and Innovation shall also appoint one (1) Investigation Committee member who is involved in activities of research and scholarship at a level comparable to those of the Respondent.

**2.11** This Investigation Committee shall select a Chair from among its three (3) faculty members.

**2.12** The mandate of the Investigation Committee shall be:

- a) To carry out a detailed examination of the evidence relevant to the Allegation.
- b) To make a finding of the facts relevant to the Allegation.
- c) To establish whether or not an Allegation has been committed.
- d) To identify, as far as is reasonably possible, whether or not any established Allegation compromises earlier research or scholarly work of the Respondent(s) such that an Investigation is required with respect to the earlier work.
- e) To identify the role and responsibility, with respect to any Breach, of any others involved in the work under question, and to report to the Vice-President, Research and Innovation on any need for further Inquiry respecting the role and responsibility of others.
- f) To submit a full, written confidential report to the President and the Vice-President, Research and Innovation outlining



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its conclusions and, ordinarily, its comments on the gravity of the Breach.

- g) To render all documentation gathered by the Investigation Committee to the Vice-President, Research and Innovation for confidential safe keeping.

**2.13** This Investigation Committee shall establish its own procedures with the following provisions:

- a) All relevant documentation shall be examined, including but not necessarily limited to research data<sup>1</sup> and proposals, publications, correspondence and memoranda of telephone calls.
- b) In all but exceptional circumstances, interviews shall be conducted of all Complainant(s), Respondent(s), as well as others who might have information regarding key aspects of the Allegations.
- c) Where an interviewee may be subject to discipline, the Investigation Committee shall inform them of the opportunity to union representation or a personal representative where they are not represented by a union.
- d) Summaries of interviews shall be prepared, provided to the interviewed party for comment and included as part of the investigatory file.
- e) The Investigation Committee shall request and examine all information it deems necessary to complete the Investigation subject to any protections for the anonymity of research participants.
- f) The Investigation Committee shall consult with the

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<sup>1</sup> Community Members shall be responsible for retaining accurately recorded and retrievable research and scholarly materials. Normally such materials should be retained for five years. Further, Community Members shall, upon request, be responsible for providing the investigation committee access to these research and scholarly materials but shall not be responsible for providing access to materials stored in archives, libraries or other institutions which the investigating committee may consult.



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University's General Counsel and such external experts<sup>2</sup> as it may deem necessary and appropriate to ensure the Investigation is thorough, fair and authoritative.

- g) Decisions shall be made by majority vote and shall include reasons and a summary of dissenting opinions if any.

**2.14** This Investigation Committee shall complete its activities normally within forty (40) working days of being appointed. If the Investigation Committee determines that it will not be able to complete the Investigation in forty (40) working days, it shall submit to the Vice-President, Research and Innovation an explanation for the delay which includes an interim report on the progress to date and an estimate for the date of completion of the report.

### **3. University's Response to the Investigation's Findings**

**3.1.** If it has been established that a policy Breach has been committed by one or more Respondent(s), the University shall, normally within twenty (20) working days, through the Office of the Vice-President, Research and Innovation:

- 3.1.1** Send each of those Respondents(s) the portion of the report of the Investigation Committee that pertains to him/her.
- 3.1.2** Invite those Respondent(s) to comment on the report.
- 3.1.3** Notify external sponsors of the research or scholarship in question of the decision and any comments of those Respondent(s) upon the report.

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<sup>2</sup> Both the Respondent and the Complainant have the right to suggest external experts for consultation.



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- 3.1.4** Send to the Complainant(s) those portions of the report of the Investigation Committee that address their role and opinions in the Investigation.
- 3.1.5** Notify any immediate research collaborators and appropriate administrators of the decision and arrange for the continuance or discontinuance of research or scholarship currently in progress.
- 3.1.6** Take appropriate remedial measures with regard to any publications or reports invalidated by the misconduct in research and scholarship.
- 3.1.7** Take appropriate actions to prevent future misconduct in research and scholarship.
- 3.1.8** Where warranted, make appropriate public statement.
- 3.1.9** Retain all documentation substantiating the findings in accordance with the University Records Policy for a minimum period of seven (7) years.
- 3.1.10** Refer the matter to Human Resources and/or the appropriate administrator to determine corrective action which may include discipline, other sanctions, as well as preventative, educational and/or remedial measures. Whenever discipline is imposed on individuals who are governed by the collective agreements, by the academic regulations governing students, or by the policies for excluded staff, the provisions of the applicable agreement, regulations



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or policy shall be followed.

- 3.2.** If the Allegation of a policy Breach against one or more Respondent is **not** established, the University shall, through the Office of the Vice-President Research & Innovation:
- 3.2.1** Send each of those Respondent(s) the portion of the report of the committee that pertains to him/her.
  - 3.2.2** Invite those Respondent(s) to comment on the report.
  - 3.2.3** Send to the Complainant(s) those portions of the report of the committee that address their role and opinions in the Investigation.
  - 3.2.4** Take appropriate action against any Complainant(s) making Allegations that were found to be frivolous or otherwise lacking in substance. Whenever discipline is imposed on individuals who are governed by the collective agreements, by the academic regulations governing students, or by the policies for excluded staff, the provisions of the applicable agreement, regulations or policy shall be followed.
  - 3.2.5** Remove all documentation concerning the Allegation from the Respondent's file and, at the sole discretion of the Respondent, destroy the documentation or transfer it to the Respondent.
  - 3.2.6** Provide written notification of the decision to all agencies, publishers, or individuals who were informed by the University of the Investigation.



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**3.2.7** Where warranted make appropriate public statements.

**3.2.8** Take appropriate action on any other related concerns.

**3.3** The University shall prepare and submit a report for the SRCR within seven (7) months of the received Allegation on each Investigation it conducts in response to an Allegation of policy Breaches related to a funding application submitted to a Tri-Council Agency or to an activity funded by a Tri-Council Agency. Reporting to other funding bodies shall be consistent with those bodies' policies.

Subject to any applicable laws, including privacy laws, each report shall 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 University.

The University's report to SRCR or other funding bodies should not include:

- information that is not related specifically to the applicable funding body and policies; or
- personal information about the researcher, or any other person, that is not Material to the University's findings and its report.



## **4. Appeals**

- 4.1** Either the complainant or the respondent may appeal the results of the Investigation by delivering to the Vice-President Research & Innovation a written notice of appeal within twenty-five (25) working days of receipt of the portion of the report of the Investigation Committee that pertains to him/her. The notice should include a written statement of appeal that indicates the grounds on which the appellant intends to rely, and any evidence the appellant wishes to present to support those grounds.
- 4.2** An appeal will be considered only on one or more of the following grounds:
- 4.2.1** That the decision maker(s) had no authority or jurisdiction to reach the decision it did;
  - 4.2.2** That there was a reasonable apprehension of bias on the part of one or more of the decision makers;
  - 4.2.3** That the original Investigation Committee made a fundamental procedural error that seriously affected the outcome; and
  - 4.2.4** That new evidence has arisen that could not reasonably have been presented at the Investigation and that would likely have affected the decision of the original Investigation Committee.
- 4.3** Upon receipt of a notice of appeal, the Vice-President, Research & Innovation or designate will review the report of the Investigation Committee and the written statement of appeal and





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determine whether or not the grounds for appeal are valid. If the Vice-President, Research & Innovation determines that there are no valid grounds under these Procedures for an appeal, then the appeal will be dismissed without a hearing and the Vice-President, Research and Innovation shall provide written reasons for their decisions. If the Vice-President, Research & Innovation determines that there may be valid grounds for an appeal, then the appeal hearing will proceed as provided for below. The decision of the Vice-President, Research & Innovation with respect to allowing an appeal to go forward is final, with no further appeal.

- 4.4** The appeal is restricted to the determination of Breach of this Policy and not of subsequent disciplinary consequences or sanctions imposed.
- 4.5** Appeal Committee

**4.5.1** The appeal committee will normally be constituted by the Vice-President, Research & Innovation within fifteen (15) working days and will be composed of the Vice-President, Research & Innovation, the Vice-President Academic, the appropriate Dean, and any external experts or academic peers required to ensure a thorough, fair and authoritative process.

If the Respondent or Complainant is a student, the appeal committee will have one additional student member who is registered in the faculty responsible for the matters to which the Allegation relates.

The Chair will be appointed by the Vice-President, Research & Innovation.

Individuals appointed to serve on the appeal committee shall exclude anyone who was involved in the original Investigation.

The members of the appeal committee will have no actual, apparent, reasonable, perceived, or potential Conflict of Interest or bias and will jointly have appropriate subject



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matter expertise and administrative background to evaluate the Allegation and the response to it.

Committee members will be required to provide a written Conflict of Interest statement prior to beginning their service on the committee.

**4.5.2** The Complainant and the Respondent will be advised of the composition of the appeal committee and will have five (5) working days to advise the Vice-President Research & Innovation of their intent to challenge the suitability of any member of the appeal committee based on a reasonable apprehension of bias against the complainant's or respondent's case.

## **4.6** Appeal Procedure

**4.6.1** The Chair will consult with the parties regarding scheduling a hearing date and will provide reasonable notice in writing of the hearing date. Whenever reasonably possible the hearing will be held within fifteen (15) working days from the time the appeal committee is constituted.

**4.6.2** The committee shall consult with the University's General Counsel and such external experts<sup>3</sup> as it may deem necessary and appropriate to ensure the appeal is thorough, fair and authoritative.

**4.6.3** If any party to these proceedings does not attend the hearing, the appeal committee has the right to proceed with the hearing. An appellant who chooses to be absent from a hearing may appoint an advocate to present his/her case at the hearing.

**4.6.4** The appeal committee is not bound to observe strict legal procedures or rules of evidence but shall establish its own procedures subject to the following principles:

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<sup>3</sup> Both the Respondent and the Complainant have the right to suggest external experts for consultation.



- 4.6.4.1** Appeal committees under these Procedures will not hear the case again but are limited to considering the grounds of appeal prescribed in 4.2.
- 4.6.4.2** The parties to the hearing shall be the appellant (who may be either the original Complainant or the original Respondent) and the other party to the original Investigation as respondent. The Chair (or another member designated by the Chair) of the original Investigation Committee may be invited to attend to answer questions of either party or of the appeal committee.
- 4.6.4.3** Except as provided for under 4.2.4 above, no new evidence will be considered at the hearing. The original Investigation report and the written statement of appeal, will form the basis of the appeal committee's deliberations.
- 4.6.4.4** It shall be the responsibility of the appellant to demonstrate that the appeal has merit.
- 4.6.4.5** Hearings shall be restricted to persons who have a direct role in the hearing. Witnesses will not normally be called, but the appellant and respondent may request the presence of a representative or observer of their choice including but not limited to a union representative. At the discretion of the chair, other persons may be admitted to the hearing for training purposes, or other reasonable considerations.
- 4.6.4.6** The appellant and the respondent (or their



representative) shall be present before the appeal committee at the same time.

**4.6.4.7** Both the appellant and the respondent will have an opportunity to present their respective cases and to respond to the submissions from the other party and from members of the appeal committee.

## **4.7** Disposition by the Appeal Committee

**4.7.1** After all questions have been answered and all points made, the appeal committee will meet *in camera* to decide whether to uphold, overturn or modify the decision of the original Investigation. The deliberations of the appeal committee are confidential.

**4.7.2** The appeal committee may, by majority

- a) Conclude that the appellant received a fair process during the Investigation, and uphold the original decision; or
- b) Conclude that the appellant did not receive a fair process, but that the outcome determined remains appropriate and the original decision is upheld; or
- c) Conclude that the appellant did not receive a fair process, and dismiss or modify the original decision; or
- d) Order that a new Investigation Committee be struck. This provision shall be used only in rare cases such as when new evidence has been introduced that could not reasonably have been available to the original Investigation Committee and is in the view of the appeal committee significant enough to warrant a new Investigation.



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**4.7.3** The chair of the appeal committee shall prepare a report of the committee's deliberations that shall recite the evidence on which the committee based its conclusions. The report shall be distributed as provided for in section 4.9.

**4.7.4** If the decision of an Investigation is successfully appealed, the chair of the appeal committee shall ask the relevant administrator to take all reasonable steps to repair any damage that the appellant's or Respondent's reputation for academic integrity may have suffered by virtue of the earlier finding of the Investigation.

**4.8** The findings and ruling of the appeal committee shall be final with no further appeal.

**4.9** Within sixty-five (65) working days of being appointed, the appeal committee shall complete its hearing and shall submit a report on its reasoned decision in writing to the relevant administrator, and the Vice-President, Research & Innovation. Under exceptional circumstances, the committee may extend this period. The appellant and respondent will each be provided with the parts of the report that are pertinent to them.

## **ASSOCIATED POLICY**

- Responsible Conduct of Research and Scholarship Policy

## **RELATED POLICIES & PROCEDURES**

- Conflict of Interest Policy
- Privacy Policy
- University Records Policy



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## RELEVANT DATES

***Originally Issued:***      **June 22, 1998**

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