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STATEMENT:

Vancouver Island University supports and encourages the maintenance of the highest ethical standards in research and scholarship. Primary responsibility for high standards of conduct in research and scholarship rests with the individuals carrying out these activities. This procedure outlines the process for dealing fairly and expeditiously when an allegation of misconduct in research has been made.

DEFINITIONS

1. **Misconduct** in research includes, but is not limited to, any deviation from the principles listed in Vancouver Island University's Integrity and Conduct in Scholarly Activity Policy.
2. The **complainant** is the person making an allegation of misconduct in research; the complainant may or may not be directly affected by the alleged misconduct.
3. The **respondent** is the person accused by the complainant of misconduct in the conduct of research.
4. **Scholarly activity:** Appropriate research, scholarship, and professional activity consists of contributions by a researcher to his/her discipline or profession resulting in the presentation of work for formal or informal peer or public review outside the institution.

Process For Review and Resolution of Allegations

1. Informal Consultation: Instances of alleged misconduct in research may be resolvable through informal consultation; departments are required to establish mechanisms for such informal resolution. It is acknowledged 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. 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 particulars of the allegation. If the complaint is carried beyond this stage it becomes a formal allegation of misconduct in research.

2. A formal allegation of misconduct in research may be made by any member of the Vancouver Island University community, or by any other person, normally within six months of the alleged misconduct. Allegations of misconduct in research are to be directed in writing to the Vice-President Academic. Allegations should include all relevant evidence, appropriately documented, and they must normally be signed and dated. If an allegation is incomplete or otherwise improperly documented, the Vice-President Academic may contact the complainant and inform him or her of the deficiency in the form of the allegation. Anonymous allegations will not normally be considered; however, if compelling evidence of misconduct is received anonymously by the Vice-President Academic he or she may initiate the investigation process described below, on the basis of this evidence. If the Vice-President Academic is a party to the alleged misconduct, then the President will assume the responsibilities of the Vice-President Academic under this procedure.
3. Upon receipt of an allegation of misconduct in research, the Vice-President Academic or his/her designate, in order to determine whether an investigation is warranted, will promptly request in writing an informal meeting with the respondent. This meeting will be requested within 5 working days of the receipt of the allegation by the Vice-President Academic. 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.
4. The Vice-President Academic 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 three, it will be informed of the decision at the same time. If the Vice-President Academic finds that an investigation is not warranted, the allegation shall be dismissed. See also the notification provisions under step eleven below. If the Vice-President Academic finds that an investigation is warranted, the notice to the respondent shall enclose a full copy of the allegation and an invitation to respond to it in writing.
5. The Vice-President Academic or designate(s) shall investigate the allegations 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 occurred. Procedures for conduct of the investigation are found below.

6. 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 Vice-President Academic 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 and the findings of the Vice-President Academic, as to whether the allegation has been upheld or not, with a statement of the reasons for the finding. The appropriate criterion for a decision is the presence of clear and convincing evidence. If the Vice-President Academic finds that no misconduct has occurred and sanctions are not warranted he or she shall proceed to step ten (preparation of the Final Report). The Draft Report shall also describe actions, if any, to be taken. 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, those listed below:
 - 6.1 sanctions against a respondent found to have engaged in misconduct,
 - 6.2 actions to protect or restore the reputation of the respondent, if wrongfully accused,
 - 6.3 actions to protect a complainant other than discipline imposed by the institution,
 - 6.4 sanctions against a complainant found to have made an irresponsible or malicious allegation.
7. Sanctions will depend on the severity of the offense and may include (but are not limited to): reprimand, suspension and dismissal (employees) in consultation with Human Resources or expulsion (students). If sanctions are to be imposed against either the respondent or complainant, the Vice-President Academic (or designate) will meet with that person to discuss the case, prior to his/her final recommendation and preparation of the Final Report. Discussions will include the Draft Report and the sanctions.
8. If sanctions or actions are components of the final decision, the sanctions or actions will be imposed or taken by the Vice-President Academic, 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.
9. If an affected person believes that the decision of the Vice-President Academic was reached improperly or disagrees with that decision, a grievance may be filed, following the grievance process applicable to that person. If no such mechanism is in place an appeal must be filed, within 30 working days of the receipt of the Final Report with the President.
10. When the case is concluded, a Final Report on the outcome will be written by the Vice-President Academic. The Final Report will contain a summary of the allegations, the decisions of the Vice-President Academic and the final outcome,

including sanctions imposed and/or actions taken. 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 Vice-President Academic.

11. If the research involved projects funded in whole or in part by one of the national granting Councils or another funding agency and misconduct was found to have occurred, a copy of the Final Report will be transmitted to that Council or other funding agency by the Vice-President Academic within 30 days of the receipt of the Final Report by the President. If an allegation is dismissed as described under step four above or otherwise determined to have been unfounded, and the national granting Council or other funding agency initiated the request for the inquiry, the Vice-President Academic will provide the Council or other funding agency with a report detailing the outcome of the allegation. This may be the Final Report or a less formal synopsis of the process and findings (if the allegation found to be false).
12. If the Vice-President Academic determines it to be in the best interests of the University, a summary report on the investigation of misconduct and its outcome will be disseminated to persons with a legitimate interest in knowing about them. 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.

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.

PROCEDURE FOR THE INVESTIGATION OF ALLEGATIONS OF MISCONDUCT IN RESEARCH:

The investigation of allegations of misconduct in research is undertaken by the Vice-President Academic or by one or more impartial designates, herein called 'the Investigators.' The number of Investigators will be determined by the Vice-President Academic dependent on the specifics of each case. Normally, the Investigators will be faculty members 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 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. If appropriate, one or more of the Investigators may be external to the University.

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.

In the following, 'representative' refers to 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.

Meetings

1. The investigation may include one or more meetings between the Investigators and the respondent. The respondent may have a representative present at such meetings.
2. The investigation may include one or more meetings between the Investigators and the complainant. The complainant may have a representative present at such meetings.

Hearing

1. 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 5 working days in advance.
2. 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.
3. Unless agreed to otherwise by all parties, the hearing shall be held in camera.
4. 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.
5. 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 3 working days, prior to the scheduled hearing. The Investigators will determine the acceptability of such reasons and whether the hearing should be adjourned.
6. Evidence will not be given under oath.
7. The two parties and their representatives may be present throughout the hearing. Witnesses may be present only when they present their evidence orally; the Investigators may permit witnesses to provide their evidence in writing.

8. 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.
9. The Investigators shall be responsible for the maintenance of an orderly procedure in the hearing.
10. 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, Vice-President Academic, the original respondent and the original complainant.

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