

Research Misconduct Framework Addendum

Procedures for Determining Jurisdiction in Complaints Involving Certain Non-University Institutions

1.0 Preamble

In November 2006, the University of Toronto (the “**University**”) issued its *Framework to Address Allegations of Research Misconduct* (the “**Framework**”). The Framework is supplemental to the *University Policy on Ethical Conduct in Research* and prescribes detailed procedures for the handling of allegations of research misconduct. The Framework complies with the requirements of the Tri-Council Agencies (CIHR, NSERC, or SSHRC) and other granting agencies.

This Addendum provides a process for determining institutional jurisdiction over Complaints of research misconduct made against persons to whom the Framework applies who have appointments at, and/or conduct their research in, Affiliated Institutions.

2.0 Definitions

Unless otherwise defined in this section, capitalized terms have the meanings set out in the Framework.

- a) “**Affiliated Institution**” means a fully affiliated or community affiliated teaching hospital which is party to an affiliation agreement with the University signed by the authorized officers of the parties, and any other institution independent from the University which has agreed to be bound by the Framework under an agreement signed by the authorized officers of the parties. For greater certainty, no federated college of the University shall be considered to be an Affiliated Institution for the purposes of this Addendum.
- b) “**Responsible Officer**” means (i) for the University, the University’s Vice-Provost, Relations with Healthcare Institutions and (ii) for an Affiliated Institution, the Affiliated Institution’s Vice-President, Research (or equivalent), or delegate as communicated in writing to the other party’s Responsible Officer.
- c) “**Status-Only Appointee**” means a person who has a primary appointment at an Affiliated Institution (including those appointed under the Policy for Clinical Faculty) and excludes Teaching Staff, employees of the University and Students.
- d) “**Student**” means a student enrolled in an academic program of the University.
- e) “**Teaching Staff**” means employees of the University, University College, the constituent colleges and the arts and science faculties of the federated universities who hold the academic rank of professor, associate professor, assistant professor, full-time lecturer or part-time lecturer, unless such part-time lecturer is registered as a student, or who hold any other rank created by the University and designated by it as an academic rank under the *University of Toronto Act*.

3.0 Applicability

This Addendum applies only to Complaints made against persons who conduct research under the auspices of either or both the University and an Affiliated Institution and who have an appointment at an Affiliated Institution and/or conduct their research at an Affiliated Institution.

The University and Affiliated Institutions agree to follow the procedures in this Addendum to determine jurisdiction and to determine if notice of the Complaint by one party to another is required hereunder. The University and Affiliated Institutions agree to comply with reasonable requests for information, documentation and attendance at meetings by the other.

Timeframes as provided by the Framework are not changed by this Addendum.

4.0 Receipt of Complaint

If the University receives a Complaint against a Status-Only Appointee or an employee of an Affiliated Institution or where the research that is the subject matter of the Complaint was conducted, in whole or in part, at the Affiliated Institution, the University shall notify the Affiliated Institution's Responsible Officer.

If an Affiliated Institution receives a Complaint against a member of the Teaching Staff, a Student or a University employee or where the research that is the subject matter of the Complaint was conducted, in whole or in part, at the University, the Affiliated Institution shall notify the University's Responsible Officer.

If either the University or the Affiliated Institution receives a Complaint against an individual who is cross-appointed at the University and the Affiliated Institution but who is not listed above, the institution that received the Complaint shall notify the other party's Responsible Officer and they shall jointly determine jurisdiction in accordance with the procedures below.

If a Complaint is received against an individual who is cross-appointed at more than one Affiliated Institution, the Responsible Officers of the Affiliated Institutions may use the criteria below to determine jurisdiction.

Where, after jurisdiction has been assumed by either the University or an Affiliated Institution or jointly by more than one institution, it is subsequently determined that the Complaint involves additional institution(s), the Responsible Officer of the institution that has taken jurisdiction shall notify the Responsible Officer of the additional institution(s) and they shall jointly re-determine jurisdiction in accordance with the Framework and this Addendum.

5.0 Determining Jurisdiction

- a) For Complaints against Status-Only Appointees or employees of an Affiliated Institution, jurisdiction is presumed to be solely at the Affiliated Institution unless

the criteria below convince the Affiliated Institution's Responsible Officer otherwise.

b) For Complaints against members of the Teaching Staff, Students or University employees, jurisdiction is presumed to be solely at the University unless the criteria below convince the University's Responsible Officer otherwise.

c) For Complaints against an individual not listed in 5a) or 5b) above who is cross-appointed at both of the University and the Affiliated Institution, jurisdiction should not be presumed by either the University or the Affiliated Institution and must be determined as outlined below.

Jurisdiction will be determined by establishing which institution has the stronger connection to the Complaint. In general, the following factors shall be considered in determining jurisdiction:

- (i) Where was the research that is the subject matter of the Complaint conducted (e.g., University or Affiliated Institution premises)? If the Complaint involves several research studies or a body of research, the focus will be on where the research is primarily conducted.
- (ii) Where did supervision for the research occur?
- (iii) Which institution administered the research funding, if any?
- (iv) Which institution is party to the research contract with any third party?
- (v) Which institution's research ethics board, animal care committee or biosafety committee conducted the full board review of the research?
- (vi) Is the Respondent a recipient of a support arrangement that is jointly administered by both the University and the Affiliated Institution (e.g., a Canada Research Chair)?

In some cases, it may be determined that both the University and the Affiliated Institution should have joint jurisdiction.

Responsibilities of the Institution that has Jurisdiction

The institution that has jurisdiction as determined hereunder shall be responsible for all communications to the Complainant and Respondent. Where there is joint jurisdiction, the Responsible Officers of the University and the Affiliated Institution will jointly make decisions typically made by an institution with sole jurisdiction (e.g., who will act on their behalf to serve the role of Academic Administrator and who shall serve as Chair and members of any Investigation Committee that may be established) and any administrative action and reporting requirements shall be jointly determined by the institutions. Should the Responsible Officers be unable to reach a joint decision, the matter shall be referred to the applicable hospital CEO and the University Provost, in consultation with the University's Vice-President, Research, for resolution. Each party

shall have the option of having at least one representative on the Investigation Committee.

Notice Requirements

In cases where sole jurisdiction lies with either the University or an Affiliated Institution but circumstances warrant notice to the other institution, notice of the outcome of the Inquiry and/or Investigation shall also be made to the other institution.

Non-duplication and Sanctions

Neither the University nor the Affiliated Institution will pursue the same or substantially similar allegation, unless new and compelling information becomes available that was not reasonably available at the time of the original Complaint. In such case, the matter will be treated as a new Complaint under this Addendum and will be subject to the jurisdictional determinations outlined herein.

Notwithstanding that the University or an Affiliated Institution did not participate in or have jurisdiction to conduct an inquiry or investigation in connection with a Complaint, nothing in the Framework or this Addendum prevents either the University or the Affiliated Institution from imposing the same or comparable sanctions in connection with the Complaint based on the conclusions reached in the inquiry or investigation.

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