

POLICY ON SAFE DISCLOSURE (“WHISTLE BLOWING”)

<i>Repealed:</i>		
Senate	May 10, 2023	Minute IIB3
Board of Governors	May 18, 2023	Minute 15.1.3
<i>Replaced by: Policy on the Disclosure of Wrongdoing (To take effect Fall 2023)</i>		
Senate	May 10, 2023	Minute IIB3
Board of Governors	May 18, 2023	Minute 15.1.3
<i>Full history appears at the end of this Policy.</i>		

STATEMENT OF PRINCIPLES

The University recognizes that the good faith reporting of Improper Activities (“whistle blowing”) is a necessary and valuable service to all its stakeholders. This Policy provides for an impartial channel for disclosure of Improper Activities and for protection from reprisal of those who make such disclosures.

Where a member of the University community feels that Improper Activity has occurred or is occurring, a confidential Disclosure may be filed with the Secretary General.

The Disclosure shall provide information as to the specific activity thought to be improper; dates on which the activity occurred, if known; the person(s) alleged to be involved; and any other information that would be useful to an investigation.

All reasonable steps shall be taken to protect the position, reputation, privacy and confidentiality of the Discloser. Investigations shall be conducted in a manner that ensures fair treatment for and, to the extent possible, the privacy of the Discloser and the Respondent.

There shall be no Retaliation against a Discloser who makes a Good Faith Report.

There shall be no Retaliation or discipline against an innocent Respondent.

STATEMENT OF RESPONSIBILITY

Nothing in this Policy relieves those responsible for the administration and management of academic, administrative or service units from the responsibility of addressing situations of Improper Activity in accordance with good management practices and existing policies, guidelines and procedures. It is also the expectation that members of the University community will continue to use existing channels to report Improper Activity and only resort to this Policy if such channels prove ineffective or are inappropriate in the circumstances.

Section 1 - Scope

1.1 This policy applies to every Member of the University Community.

Section 2 - Definitions

2.1 “Academic Misconduct” includes failure to perform academic duties, improper use of

confidential academic material, and misrepresentation of material facts for personal advantage or for the advantage or disadvantage of another.

2.2 “Advisor” means a Member of the University Community so identified who has agreed to accompany the Discloser or the Respondent and act in an advisory capacity. Advisors are not paid for their services.

2.3 “Discloser” means a Member of the University Community who makes a written report alleging Improper Activity under this Policy or pursuant to a law.

2.4 “Disciplinary Officer” for the purpose of this Policy means the person with the authority to impose discipline or trigger the disciplinary process in regard to the Respondent.

2.5 “Disclosure” means a confidential, written report alleging Improper Activity

2.6 “Financial Misconduct” includes misappropriation or misuse of funds or property that belong to the University or for which the University is directly or indirectly responsible, and the failure to follow accepted University or Granting Agency policies or practices applicable to the use and administration of funds or property.

2.7 “Good Faith Report” means a Disclosure that is not malicious or frivolous made by a Discloser who has reasonable grounds to believe that they have knowledge of the alleged Improper Activity.

2.8 “Granting Agency” includes a funding agency, foundation or other entity supporting in whole or in part research or other academic activities conducted in whole or in part under the auspices of the University.

2.9 “Improper Activity” is an act or omission committed by a Respondent that constitutes “Academic Misconduct”, “Research Misconduct” or “Financial Misconduct”.

2.10 “Innocent Respondent” means a Respondent who is the subject of an allegation of Improper Activity that was found to be unsubstantiated, or a Respondent who did not know or could not have known of the impropriety of the activity in question.

2.11 “Investigator” means any person or persons charged by a Responsible Officer to conduct an investigation under this Policy.

2.12 “Member of the University Community” means

- i) an employee or appointee (including a volunteer) of the University;
- ii) anyone holding office under the University Charter and Statutes or who serves on any body or committee of the University;
- iii) anyone holding office on the board of an institution affiliated with McGill University or who serves on a committee established by such board; or
- iv) a student as defined in Section 1 of the Code of Student Conduct and Disciplinary Procedures.

2.13 “Research Misconduct” includes fabrication, falsification, plagiarism, or any other conduct related to research that constitutes a significant departure from Granting Agency or other relevant regulatory body requirements, or from the ethical and other standards that are commonly accepted within the relevant research community for proposing, performing, reporting or reviewing research or treating human and other sentient research subjects.

2.14 “Respondent” means a Member of the University Community, other than a student, against whom an allegation of Improper Activity has been made.

2.15 “Responsible Officer” means

- (i) for the purposes of reporting Academic Misconduct, the Provost;
- (ii) for the purposes of reporting Research Misconduct, the Research Integrity Officer;
- (iii) for the purposes of reporting Financial Misconduct, the Director of Internal Audit;
- (iv) for the purpose of reporting Improper Activity that involves more than one form of misconduct, the Provost.

In the event that a Disclosure relates to one of the Responsible Officers, the Secretary General shall designate one of the other Responsible Officers to serve.

2.16 "Retaliation" means any action taken by the University or a Member of the University Community against another Member of the University Community that adversely affects the status or well-being of the latter and includes discharging, threatening, discriminating, or retaliating in any manner that affects employment or academic standing, compensation, job location, promotion, grades, enrolment status, or any other rights, immunities, or privileges of such person.

PROCEDURES

Section 3 - Reporting of Improper Activities

3.1 A Discloser may file with the Secretary-General a confidential Disclosure alleging Improper Activity.

In the event that a Discloser has reasonable grounds to believe that the Secretary-General is engaged in Improper Activity, the Disclosure shall be filed with the Principal.

3.2 The Disclosure shall provide as clearly as possible information as to: the specific activity thought to be improper; dates on which the activity occurred, if known; the person(s) alleged to be involved and any other information that would be useful to an investigation of the allegation(s).

3.3 On receipt of the Disclosure, the Secretary-General or, where appropriate, the Principal, shall transmit a copy, with nominative information concerning the Discloser removed, to the appropriate Responsible Officer.

3.3.1 Nominative information concerning the Discloser shall be released to the Responsible Officer, where:

- (i) the Responsible Officer concludes that further action is warranted under section 4.1; or
- (ii) the Responsible Officer has reasonable grounds for suspecting that the report is not a Good Faith Report.

Section 4 - Investigation of Improper Activities

4.1 After reviewing the allegation(s), the Responsible Officer shall decide within fifteen (15) working days whether further action is warranted. In making this determination the Responsible Officer shall consider such factors as whether the Disclosure meets the requirements of section 3.2, whether it contains sufficient information to allow for an adequate investigation, and whether it appears to be a Good Faith Report.

4.2 Where the Responsible Officer concludes that no further action is warranted, the Secretary-General or, where appropriate, the Principal, shall be so notified in writing by the Responsible Officer, with reasons. The Secretary-General or the Principal shall, in turn, notify the Discloser.

4.3 Where the Responsible Officer concludes that further action is warranted, the Responsible Officer shall so notify the Discloser in writing. The Responsible Officer shall direct the Disclosure to the appropriate officer or body to be dealt with as required by the relevant University regulation, policy or collective agreement as they may exist from time to time.

4.3.1 In the event that there is no established University procedure for the investigation of the Improper Activity in question, the Responsible Officer shall conduct an investigation, or shall assign an Investigator to conduct an investigation, in accordance with this Policy. Investigators shall use such investigative procedures as they deem appropriate to the nature of the allegation(s).

4.4 In exceptional cases the Responsible Officer may initiate interim measures, as appropriate, to protect Members of the University Community or the public, or to protect or secure funds or property that belong to the University or for which the University is directly or indirectly responsible. The institution of such measures shall be without prejudice to the rights of the Respondent.

4.5 The Responsible Officer shall ensure that the Investigator is provided with the support necessary to conduct a thorough Investigation.

4.6 The Investigator shall conduct a thorough investigation in a manner that shall ensure fair treatment for and, to the extent possible, the privacy of the Discloser and the Respondent.

4.7 Before reaching a final conclusion regarding the substance of the Disclosure, the Investigator shall notify the Respondent in writing of the allegation(s). The Investigator shall inform the Respondent of the right to an Advisor and shall ensure that the Respondent has access to and can locate this Policy.

The Respondent shall respond to the allegations within 10 working days. Should the Respondent require additional time, the Respondent may request an additional five working days to respond to the allegations and the Investigator may grant this request if it is deemed to be warranted.

4.8 All persons interviewed by the Investigator shall be advised to treat all information, evidence and proceedings as confidential.

4.9 All Members of the University Community, including Disclosers, Respondents, and their Advisors, shall cooperate with the Investigator and respond in a timely fashion to any request for information or meetings.

4.10 Findings, conclusions and recommendations shall be filed by the Investigator with the Responsible Officer as soon as possible and no later than thirty (30) working days from the date of the Investigator's appointment. This time limit may be extended by a maximum of an additional thirty (30) working days by express authorization of the Responsible Officer upon written request by the Investigator.

4.11 In the event of a finding of Improper Activity, the Responsible Officer shall transmit the Investigator's Report to the relevant Disciplinary Officer for consideration. Where the Research Integrity Officer is the Responsible Officer, the reporting of misconduct must follow procedures established in the *Regulations Concerning the Investigation of Research Misconduct*.

4.11.1 In the event that disciplinary action is justified, proceedings shall be instituted by the Disciplinary Officer in accordance with the relevant regulations, policies, or collective agreements.

4.11.2 In the event that disciplinary action is not warranted, the Respondent, the Responsible Officer and the Secretary General shall be so notified by the Disciplinary Officer.

4.12 Except as required by law or the regulations or policies of a Granting Agency which has oversight of the activity to which the Improper Activity relates, the Investigator's report shall not be disclosed to or discussed with any persons other than:

- (i) the Respondent;
- (ii) the Responsible Officer; and
- (iii) such other persons, including the Discloser, if they have a legitimate need to know of the results of the investigation or in order to perform their duties.

4.13 Where the Discloser does not have a legitimate need to know, the Responsible Officer shall notify the Discloser in writing of the termination of the investigation without elaboration or reasons.

4.14 On completion of the investigation, the Responsible Officer shall deposit the Investigator's Report and all original files and documents with the Secretary-General or, where appropriate, the Principal.

The Secretary-General shall be the official custodian of all files and documents pertaining to a Disclosure and any investigation thereof. The Secretary-General is charged with preserving confidentiality. All files and documents shall be retained for a minimum of five years.

Section 5 - Protection from Retaliation for Reporting Improper Activities

5.1 All reasonable steps consistent with the law and the rights of the Respondent shall be taken by the Responsible Officer, Investigator, or other officer or body, charged with investigating a report of Improper Activity, to protect the position, reputation, privacy and confidentiality of the Discloser who has made a Good Faith Report of Improper Activity. The Discloser shall be advised by the Responsible Officer when confidentiality may no longer be maintained.

5.2 No Discloser who makes a Good Faith Report shall be subject to Retaliation, regardless of the results of any investigation and/or the decision of a Disciplinary Officer.

5.3 The filing of a Good Faith Report of Improper Activity shall not constitute harassment within the terms of the Policy on Harassment, Sexual Harassment and Discrimination Prohibited by Law.

5.4 Disclosers who believe that the University or a Member of the University Community has acted or intends to act adversely towards them because of the allegations may exercise the recourses available under relevant University regulations, policies, or collective agreement or report the matter to the Secretary General for consideration.

5.5 Members of the University Community who learn of an allegation of Improper Activity shall treat the Discloser in accordance with this Policy.

5.6 Members of the University Community shall immediately report any alleged or apparent Retaliation against a Discloser to the Secretary General.

Section 6 - Reports that are Not Good Faith Reports

6.1 A Discloser who makes a report that is not a Good Faith Report commits a disciplinary offence.

6.2 Where a Responsible Officer has reasonable grounds for suspecting that a report is not a Good Faith Report, the Responsible Officer shall assign an Investigator to conduct an investigation and make a recommendation as to whether or not the Disclosure was in Good Faith. The Responsible Officer may, where appropriate, recommend disciplinary proceedings against the Discloser in accordance with the relevant regulations, policies, or collective agreements. The Responsible Officer is not required to hold a hearing.

6.2.1 The Investigator shall proceed in accordance with this Policy.

6.3 Where a Responsible Officer, on the basis of an Investigator's report, determines that a Disclosure is not a Good Faith Report, the Responsible Officer may, where appropriate, recommend disciplinary proceedings against the Discloser in accordance with the relevant regulations, policies, or collective agreements. The Responsible Officer is not required to hold a hearing.

Section 7 - Protection of Innocent Respondents

7.1 An Innocent Respondent shall not be subject to Retaliation or discipline.

7.2 An Innocent Respondent who believes that they have been the subject of Retaliation by the University or a Member of the University Community may utilize the procedures available under the applicable University regulations, or policies, or collective agreement or report the matter to the Secretary General for consideration.

7.3 All reasonable steps shall be taken by the University to protect the position, reputation, privacy and confidentiality of an Innocent Respondent.

Section 8 - Annual Report of Improper Activities

8.1 Once per academic year, the Secretary-General shall make a report to Senate and the Board of Governors, which report shall include:

- (i) the number of reports filed by Disclosers;
- (ii) the number of reports investigated;
- (iii) the number of findings of Improper Activity;
- (iv) the types of action taken pursuant to an investigation.

8.2 The annual report of Improper Activities shall respect the privacy of Disclosers and Respondents.

Section 9 - General Provisions

9 Nothing in the present Policy shall in any way preclude anybody from exercising at any time any internal or external recourse available.

Section 10 - Review of Policy

10 After a further three years of its operation, this Policy shall be reviewed by a working group, comprised of:

- i) the Provost or delegate (as Chair).
- ii) one representative each of MAUT, MUNASA, MUNACA, AGSEM, AMUSE, AMURE, SEU, SSMU, PGSS, MACES, MCSS;
- iii) the Vice-Principal (Research and International Relations) or delegate;
- iv) the Vice-Principal (Administration and Finance) or delegate.

The working group may make recommendations for modification of the Policy.

History:		
Approved:		
Senate	May 23, 2007	Minute 6
Board of Governors	October 30, 2007	Minute 7
Amended:		
Senate	January 20, 2010	Minute IIB3.3
Board of Governors	February 15, 2010	Minute 13
Amended:		
Senate	November 18, 2015	Minute IIB3
Board of Governors	November 26, 2015	Minute 15
Repealed:		
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Board of Governors	May 18, 2023	Minute 15.1.3
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