

Appendix A: Misconduct and Disciplinary Review

Misconduct in academic research and scholarship is a serious offence. If misconduct is suspected or proven, researchers may face disciplinary measures.

Purpose

All members of the College engaged in academic research are subject to the procedures and consequences set out in this policy, and are expected to adhere to the standards outlined in the Tri-Agency Framework: “Responsible Conduct of Research (2014)”. It is noted that misconduct in research and scholarship is an offence which, depending on its severity, is subject to a range of disciplinary measures up to and including dismissal. Allegations of misconduct shall be dealt with according to the policies and procedures set forth by the College’s Research Ethics Board, the Criminal Code of Canada (R.S.C., 1985, c. C-46, s. 380), and the relevant Collective Agreement.

1. Conflict of Interest:

Researchers must:

- 1.1 Comply with Loyalist College’s policy on intellectual property as it relates to the operational and financial terms of research grants and/or contracts awarded to a Loyalist College researcher.
- 1.2 Reveal in writing, in a timely manner any material financial interest in a company that contracts with Loyalist College to undertake research. (Material financial interest includes ownership, substantial stock holding, directorship, significant honoraria or consulting fees, but does not include minor stock holding in a large, publicly traded company); and
- 1.3 Reveal in writing, in a timely manner, to sponsors, Loyalist College and other relevant universities/colleges, journals or funding agencies, any material conflict of interest that might influence their decision on whether the individual should be asked to review manuscripts or applications, or be permitted to undertake work sponsored from outside sources.

2. Misconduct

- 2.1 Misconduct in research and scholarship includes, but is not limited to, any deviation from these modes of behavior identified above. Loyalist College is responsible for investigating allegations of misconduct involving its researchers and scholars. Such allegations may arise from sources within or outside the college. Whatever their source, motivation or accuracy, allegations of misconduct in research have the potential to cause great harm to the person accused, to the person making the accusation, to the college, and to research and scholarship in general. They, therefore, require prompt, effective action by Loyalist College.
- 2.2 Acts of scholarly misconduct may be committed with varying degrees of deliberateness. The borderline between carelessness, negligence and intentional dishonesty may be very narrow. The result is objectionable in any case, even if different degrees of discipline are appropriate.

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3. Allegation of Misconduct

Allegations of misconduct in research and scholarship may be made by any person.

Informal Consultation

- 3.1 Alleged misconduct may be resolvable through informal consultation; Deans of schools are encouraged to establish mechanisms for such informal resolution. Should a power imbalance exist in the relationship between parties (e.g. between student and professor) which might prevent an information resolution, the accused/complainant has the right to request and receive a formal meeting.

If the complaint is not carried beyond the stage of informal consultation, Loyalist College shall maintain no written records of the names of the parties or particulars of the allegations.

Formal Investigations

- 3.2 An allegation of a violation of research integrity or misconduct must be made in writing to the Vice President, Academic. Deans, Directors, Chairs, and Program Coordinators who become aware of such an allegation, must report the allegation to the Vice President, Academic within two (2) days. In the event that the complaint cannot be documented in writing, the Vice President is not obligated to take further steps. In the event that the Vice President, Academic is in any way related to the research activity, i.e. part of the research team, the alleged violation will be submitted in writing to the President of the College. The President shall then be responsible for ensuring that the established procedures are followed, making the necessary variations to the process.
- 3.3 In the event of an anonymous allegation, the complaint will not normally be considered; however, in the event that the Vice President, Academic determines that compelling evidence has been received, he/she has the right to proceed with the investigation.
- 3.4 The Vice President, Academic, may delegate any function specified in these procedures, but is ultimately responsible for ensuring that the established procedure is followed.
- 3.5 The College President and the Vice President, Academic has the authority to:
- a) Stop the research project;
 - b) Close down the research labs;
 - c) Protect the College and the funds allocated for the research;
 - d) Acquire relevant documentation and files related to the research; and
 - e) Request members of the research project to meet before a committee to answer specific questions or supply materials as required.

Inquiries

- 3.6 The Vice President, Academic shall initiate within three (3) days an inquiry into an allegation of misconduct related to a research project. The Vice President, Academic will inform respondents of the allegations and the process to be followed. The inquiry will require the gathering of information to determine whether the matter warrants further investigation. The process should be completed within thirty (30) days.

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- 3.7 The Vice President, Academic, shall, if there is any validity to the allegation, appoint a Committee to conduct a formal inquiry. The Committee shall be comprised of three (3) people who have an expertise conducive to the complaint and availability. All appointees are required to declare they have no conflict of interest with respect to the allegation or with the person/s of whom the complaint is against.
- 3.8 The Vice President, Academic shall notify the respondent and any person who is identified in the complaint, of the composition of the Committee who has been appointed to conduct the inquiry within two (2) days of the Committee being struck.
- 3.9 The respondent or any person who is identified in the complaint who objects to the composition of the Committee will notify the Vice President, Academic, in writing within three (3) days of being notified of the Committee membership.
- 3.10 The Vice President, Academic shall notify the respondent in detail of the evidence that has been received and is being considered by the Committee. The respondent shall be invited to respond to the Committee in person or in writing regarding the evidence that the Committee is considering.
- 3.11 Should there be any person not already identified in the complaint in writing, that the Committee wishes to contact, the Committee shall advise the person that it may be necessary in the interest in fair, equitable, justice to reveal that person's identify to the respondent.
- 3.12 The Committee shall have the authority to interview those individuals directly or indirectly related to the allegation. The Committee shall as far as possible, respect the privacy of the complainant and respondent(s).
- 3.13 Within ten (10) days of the Committee proceedings, the inquiry shall be completed. The Committee shall determine if the complaint requires further investigation or they may make recommendations as to how the problem may be resolved. The decision shall be reported to the College President and Vice President, Academic. The Vice President, Academic shall also be provided with the information used to reach the decision and the rationale for the decision.
- 3.14 The Vice President, Academic shall advise the respondent and any person identified in the complaint, in writing of the Committee decision within one (1) day if the complaint has been dismissed. It will outline, in sufficient detail, the reasons for determining why or why not further action was, or was not, necessary. In

conducting the inquiry, the Vice President, Academic has the right to secure individuals with expertise to carry out a thorough and authoritative evaluation of the evidence presented.

4. Investigations

- 4.1 When a Committee recommends that the complaint warrants further investigation, the Vice President, Academic shall advise the respondent and any person identified in the complaint that the College will proceed with a formal investigation.
- 4.2 The Vice President, Academic shall appoint within ten (10) days a Committee to conduct an investigation. The Vice-President, Academic will inform respondents of the

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- allegations and the process to be followed. The process should be completed within thirty (30) days.
- 4.3 The Vice President, Academic shall notify the respondent and any person who is identified in the complaint, of the composition of the Committee who has been appointed to conduct the investigation within two (2) days of the Committee being struck.
 - 4.4 The respondent or any person who is identified in the complaint who objects to the composition of the Committee will notify the Vice President, Academic, in writing within three (3) days of being notified of the Committee membership.
 - 4.5 The Committee to conduct the investigation shall consist of three people, with requisite expertise, none of whom sat on the Investigation Committee, and one of whom shall be external to Loyalist College. The Committee shall appoint one of its members to act as Chair of the Committee.
 - 4.6 The Chair of the Committee has the right to request to secure the expertise of an impartial expert, to ensure the investigation is rigorous.
 - 4.7 The Chair may request to have access to any College documents and question any member of the college community connected to the allegations and investigation.
 - 4.8 The Chair will notify the respondent in sufficient detail of the evidence being examined. The respondent shall be invited, with an adviser should the respondent so desire, to appear before the Committee in person, or submit a brief in writing.
 - 4.9 The Committee shall interview the complainant(s) and respondent(s). In addition, individuals who have information bearing on the allegations may be interviewed. Transcripts or summaries of such interviews will be provided to an interviewed party for comment and revision. This documentation will be included in the file of the investigation.
 - 4.10 A copy of the written report will be provided to the person(s) against whom the allegation was brought, and that person shall be given the opportunity to respond to the report. The response will become part of the documentation on the allegations. The respondent(s) will be given the opportunity to respond to the allegations in either written format or in-person.
 - 4.11 The Committee, through majority voting, will make a decision on the allegation that a violation of research integrity has occurred. The decision will be recorded in written format.
 - 4.12 The Chair will provide a written report to the Vice President, Academic. The report shall provide in detail the allegation(s), the investigative process, including a listing of the individuals or groups with whom the Committee communicated with in-person or in written format, and the recommendations. In the instance where there is no clear consensus, the report of the Committee will record dissenting views. The report will remain on file for three years. The file may be examined upon request to the Vice-President, Academic.
 - 4.13 The Vice President, Academic shall upon receipt of the report notify the respondent and any person identified within the report of the Committee decision. Generally, one of two decisions will be communicated:

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- 9.13.a Advise the respondent and any person identified within the complaint that the complaint has been dismissed
- 9.13.b Advise the respondent and any person identified within the complaint that the Committee has determined that the complaint has been found to be considered misconduct and that it will be referred for further investigation
- 4.14 The Vice-President, Academic will recommend further action if the allegation or misconduct is substantiated. If such action includes any disciplinary action against a staff member, it shall be in accordance with standard College practices.
- 4.15 If the Committee rules in favour of the complainant, the respondent may file an appeal to the College President. The President's role is confined to ensuring that the policy was followed and due process ensured. In the event that the President determines that due process was not followed, the President will refer the matter back to the Committee with instructions related to the lack of due process.
- 4.16 In the event that the Committee determines there was no violation of the Research Integrity policy, the College will take steps to restore the reputation of those charged with a violation and ensure that all documentation associated with the allegation is destroyed. If the Committee determines that the allegation by the complainant was vindictive, the College will take steps to discipline the complainant in accordance with standard College practices. The Vice President, Academic will prepare a report addressing any case of inappropriate charges of research misconduct.
- 4.17 The College will ensure, in so far as possible, that accusers are protected from retaliation, and respondents from frivolous or malicious allegations. Allegations of misconduct in research should be directed, in writing, to the Chair of the Research Ethics Board. It is a violation of professional responsibility to participate in, encourage or condone misconduct in research, or to make unfounded allegations of misconduct.
- 4.18 The privacy of persons reporting apparent misconduct will be protected to the fullest extent possible, as will the positions and reputations of individuals who, in good faith, make allegations of misconduct, and of those individuals against whom allegations of misconduct are not confirmed.

5. Appeals

- 5.1 A respondent has the right to appeal the decision as per College policies and collective agreement rights.
- 5.2 For respondents who are not protected by College policies or collective agreement rights, the President will strike a Committee to hear the appeal.
- 5.3 Notification of Funding Agencies
- 5.4 When the Inquiry Committee makes recommendations to the Vice President, Academic that an investigation is warranted, the Vice President, Academic will inform the funding agency(ies) of the research and scholarship in question of the complaint being investigated.
- 5.5 If the decision of the Committee is upheld by the President, the College must inform the granting funding agency(ies) within thirty (30) days of the Committee finding and indicate the course of action the College plans to take in terms of sanctions.