

Research St. Joseph's – Hamilton (RSJ-H)		Pages 1 of 7	Number 007-RSJ-H
Policy Title Allegations of Misconduct		Date 19 January 2015	
Supersedes New policy	Cross Reference McMaster Research Integrity Policy	Issuing Authority RSJ-H Board of Directors	
<input checked="" type="checkbox"/> Charlton Campus	<input checked="" type="checkbox"/> West 5th Campus	<input checked="" type="checkbox"/> King Campus	

Position responsible for developing and maintaining the policy: RSJ-H Scientific Director

1.0 PREAMBLE

Research St. Joseph's – Hamilton (RSJ-H) expects integrity in the conduct of research by its researchers and research personnel. It expects ethical behaviour in respect to authorship and appropriate acknowledgement of research contributions. It is recognized there are varying degrees of severity in violation of standards of research conduct. Further, there will be cases where disputes may arise which do not clearly evoke misconduct, but rather are differences of opinion as to what is considered ethical behaviour. For cases involving issues, which are not clearly misconduct, but do deal with issues of research ethics, it is recommended that informal dispute settlement mechanisms be used.

1.1 The McMaster Policy entitled *Research Integrity Policy* applies to all McMaster faculty and staff conducting research at RSJ-H. When research misconduct by a faculty member or a staff member employed by McMaster University is alleged, the McMaster policy will apply. When research misconduct by a staff member employed by St. Joseph's Healthcare Hamilton (SJHH) is alleged, the RSJ-H policy will apply. The intent of the policy is to be closely aligned with the McMaster University policy, recognizing that administrative responsibility resides at RSJ-H for SJHH employees.

1.2 In the context of this policy, MISCONDUCT in the proposing, conducting or reporting of scholarly activity includes, but is not limited to the following:

- a) misrepresentation, fabrication, or falsification of data;
- b) plagiarism, including plagiarism of one's own work;
- c) abuse of confidentiality with regard to information and ideas taken from manuscripts, grant applications, or discussions held in confidence;
- d) other kinds of misconduct such as: violation of the regulations of the granting bodies; improper use of funds, equipment, supplies, facilities, or other resources; failure to respect policies on use of human subjects or animals; falsification or misrepresentation of credentials;
- e) failure to reveal any material conflict of interest to the sponsors or to those who commission work or when asked to undertake reviews of research grant applications

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or manuscripts for publication, or to test products for sale or distribution to the public; or

- f) failure to reveal to RSJ-H any material financial interest in a company that contracts with RSJ-H to undertake research, particularly research involving the company's products. Material financial interest includes ownership, substantial stock holding, a directorship, significant honoraria or consulting fees, but does not include routine stock holding in a large publicly traded company.

Misconduct *does not include* honest error or honest differences of opinion in the carrying out of scholarly activity, but may extend to negligence. Policies are already in place governing research with human and animal subjects. This document is not intended to supersede them.

- 1.3** INQUIRY is the stage of information gathering and initial fact-finding to determine whether an allegation or apparent instance of misconduct warrants a Hearing. An Inquiry is not a formal Hearing. It is designed to separate allegations deserving of further investigation from unjustified, frivolous, or clearly mistaken allegations.
- 1.4** HEARING is the formal examination and evaluation of all relevant facts to determine if misconduct has occurred.
- 1.5** Because an individual's reputation is crucial to his/her career, serious consideration must be given to the possible harm to his or her reputation before making any allegation of misconduct. RSJ-H will take care to ensure that those making legitimate accusations in good faith are protected from reprisals, but will not tolerate allegations that are frivolous, unreasonable, vexatious or wholly without foundation. If such allegations are found to have been maliciously motivated, disciplinary actions against those responsible shall be initiated by RSJ-H.
- 1.6** RSJ-H will endeavour to protect the identities of both the accused and the accuser(s) at all stages of the process, save only when an accused individual is exonerated and wishes that fact to be known publicly, or during a Hearing, when the stipulations of the Statutory Powers Procedure Act, R.S.O. 1980, may require the Hearing to be open to the public, or following a Hearing, when the accused individual is determined to have committed misconduct in research. Additionally, at the request of the accused, RSJ-H will indicate when an Inquiry has taken place that has not led to a subsequent Hearing.
- 1.7** If the person accused of misconduct is no longer an employee of SJHH, the requirements of notice and an opportunity to answer to the allegation of misconduct shall be observed as far as is practicable in any Inquiry or Hearing proceedings, but a failure of the person accused to respond or to make himself/herself available shall not necessarily deter the Inquiry or the Hearing from proceeding.
- 1.8** For the purpose of interpreting this document, words, in the singular may include the plural.

2.0 PROCEDURES FOR HANDLING AN ALLEGATION

2.1 INITIATING THE PROCEEDINGS

- a) A concern about misconduct in research may be raised with the RSJ-H Scientific Director.
- b) An allegation of misconduct, whether originating from within or outside RSJ-H, may not proceed through the subsequent steps described in this policy until the allegation is made in writing to the RSJ-H Scientific Director and duly signed.
- c) The signed allegation of misconduct shall include particulars of the allegation in sufficient detail to enable all persons to make clear the nature or type of activity, which is regarded as being the subject of misconduct, together with a brief description of the facts, events and circumstances, which describe the allegations.
- d) The person who signs the allegation need not be the person who discovered the possible misconduct. The latter individual, however, must be prepared to be identified if Hearing or dismissal proceedings are initiated.
- e) The person who signs the allegation shall be the person who takes the allegation forward.
- f) Once an allegation has been signed and received by the RSJ-H Scientific Director it cannot be withdrawn. The RSJ-H Scientific Director must proceed in accordance with clause 2.2 (b) below.

2.2 INQUIRY

- a) The Inquiry is a fact-finding process to determine whether an allegation or apparent instance of misconduct has occurred. All proceedings and consultations shall be held in the strictest confidence.
- b) Upon receipt of an allegation of misconduct the RSJ-H Scientific Director or delegate shall conduct an Inquiry. The RSJ-H Scientific Director shall notify the Chair of the RSJ-H Board of Directors ("Board"), that an Inquiry is underway.
- c) The parties to the Inquiry shall be the person who signs the allegation and the person against whom the allegation of misconduct is made, hereinafter called the "respondent".
- d) In the conduct of the Inquiry the RSJ-H Scientific Director or delegate shall discuss the matter with the party who signed the allegation, the respondent, and in confidence with any other person whom the RSJ-H Scientific Director or delegate has reason to believe may have relevant information. He/she may seek such advice as is deemed necessary to evaluate the validity of the allegation.
- e) If, during the Inquiry, the RSJ-H Scientific Director or delegate has reasonable and probable grounds to believe that patient safety is compromised, it may be

appropriate that research activity be suspended, in whole or in part. The RSJ-H Scientific Director or delegate, in consultation with the Board and the Research Ethics Board Chair shall have the right to suspend the research activity in whole or such part and notify the funding source in compliance with their reporting requirements.

2.3 COMPLETION OF INQUIRY

- a) Upon completing the Inquiry, the RSJ-H Scientific Director will make one of the following recommendations to the Board:
 - i. The RSJ-H Scientific Director may conclude there is no reasonable basis for any action to be taken.
 - ii. The RSJ-H Scientific Director may recommend a solution. If the parties do not agree to the solution, the Board will proceed to a Hearing.
 - iii. In the event that the RSJ-H Scientific Director has reasonable and probable grounds to believe that criminal activity appears to have taken place, the Board (or the RSJ-H Scientific Director, acting alone, in the case of urgent or emergent findings) has absolute authority to suspend the proceedings and notify authorities. In the case that an offence subject to mandatory reporting is identified such reporting will occur and the proceedings will be suspended pending the criminal investigation.
- b) After reviewing the case, the Board shall follow the same procedure prescribed for the RSJ-H Scientific Director.
 - i. If the Board concurs with the finding of the RSJ-H Scientific Director i.e., that there is no reasonable basis for any action to be taken, the case shall be closed.
 - ii. If the Board recommends a solution, which is not acceptable to both parties, the Board shall so inform both parties and the case shall go to a Hearing. In this case, the Chair of the Board shall inform the Chair of the St. Joseph's Health System Board of Trustees.

2.4 RESEARCH MISCONDUCT HEARING

- a) The Chair of the Board will appoint members to the Hearing Committee who are persons of appropriate background and without conflict of interest.
- b) The RSJ-H Scientific Director shall notify the appropriate granting council or agency, where required, that a Hearing will be taking place.

2.5 PROCEDURES FOR HEARINGS

- a) Parties to the Hearing may be advised or represented by a friend, colleague, or legal counsel.
- b) Administrative support for the Hearings Committee will be provided through the office of the RSJ-H Scientific Director.

2.6 HEARING DECISION

- a) The Hearing shall report in writing to the Chair of the Board within one-hundred and twenty (120) days of being struck, except in extraordinary circumstances or unless circumstances clearly warrant a longer period.
- b) The report shall be copied to the RSJ-H Scientific Director, and all parties to the Hearing.
- c) The report shall include:
 - i. The membership of the Hearings Committee;
 - ii. The background of the case, including the nature of the alleged misconduct;
 - iii. A summary of the cases of the parties to the Hearing;
 - iv. The Committee's majority findings; and
 - v. The Committee's majority decision and the reasons for the decision. This section shall clearly indicate which allegations are supported and which are not.
- d) Should one or more allegations of misconduct be supported, the report shall also recommend such disciplinary action as the Hearings Committee deems appropriate up to and including termination. (See Appendix A)
- e) In the case of exoneration, all appropriate steps shall be taken to protect the reputation of the accused researcher, including the issuance of statements of exoneration in consultation with the researcher. However, if the Hearings Committee determines that misconduct has occurred, the Chair of the Board shall inform, as warranted, the appropriate granting agencies, co-authors, collaborators, editors of journals, professional societies, appropriate University officers etc.

2.7 CONFLICT OF INTEREST

The Chair of the Board and the RSJ-H Scientific Director shall undertake to avoid conflicts of interest at the respective levels of the proceedings. Any changes required to preserve arm's length dealing supersedes the requirements of these procedures. Should the RSJ-H Scientific Director not be at arm's length from the allegation, the Chair of the Board shall determine who shall act for the RSJ-H Scientific Director.

Appendix A: Disciplinary Actions

Developed in consultation with: RSJ-H Scientific Director, and Chief Governance and Corporate Support Services

APPENDIX A

Disciplinary Actions

The disciplinary action recommended by the Hearings Committee should be proportional to the severity of the misconduct.

- i. Verbal reprimand;
- ii. Written reprimand;
- iii. Removal from a particular project;
- iv. Special monitoring of future work;
- v. That the appropriate administrative officers and/or committees take the findings of the Hearings Committee into consideration when the individual is next considered for career progress/merit increases;
- vi. That the appropriate administrative officers and/or committees take the findings of the Hearings Committee into consideration when the individual is next considered for promotion;
- vii. Probation;
- viii. That suspension with or without pay for a specified period be imposed; and
- ix. That the appropriate procedures for termination of employment or removal be initiated, in accordance with existing policies of Research St. Joseph's - Hamilton and St. Joseph's Healthcare Hamilton.