



The Joint Administration/Faculty Association
Committee to consider University Financial Matters
and to discuss and negotiate matters related to Terms
and Conditions of Employment of Faculty

1280 Main Street West
Hamilton Ontario
L8S 4K1

July 5, 2024

TO: McMaster Faculty

FROM: The Joint Administration/Faculty Association Committee

Dear Colleagues,

In 2022, the University Administration and the McMaster University Faculty Association undertook a joint review to consider best practices for investigation processes under three University Policies: Discrimination and Harassment Policy (DHP), Sexual Violence Policy (SVP), and Research Integrity Policy (RI Policy).

The review was independently conducted by Arbitrator Michelle Flaherty. Her work included examination of existing procedures, extensive stakeholder interviews and input from students, faculty and staff, a comparative policy analysis, and a literature review.

We are pleased to be able to share with the McMaster community the summary of findings and recommendations.

We are pleased to note that the University Administration has already implemented many of the specific recommendations or committed to doing so. Over the next several months, the Joint Committee will prioritize the remaining recommendations of the report, including whether and how to implement them.

The full report remains confidential as agreed upon by MUFA and University Administration in the Terms of Reference.

We thank everyone who participated and supported the review's work to help improve the university's policies and practices.

Handwritten signature of Susan F. Tighe in black ink.

Dr. Susan Tighe
Provost and Vice-President Academic

Handwritten signature of Catherine Anderson in black ink.

Dr. Catherine Anderson
President, MUFA

Summary

Best Practice Review of Investigation Processes at McMaster University

Prepared by Arbitrator Michelle Flaherty

June 5, 2024

INTRODUCTION

MUFA and McMaster University have undertaken a Best Practices Review of investigation processes under three University Policies: the *Discrimination and Harassment Policy* (DHP), the *Sexual Violence Policy* (SVP), and the *Research Integrity Policy* (RI Policy).

MUFA and the University Administration agreed on the scope of the review and they jointly selected Arbitrator Michelle Flaherty to carry out the review confidentially and independently. The review had three main components: (a) stakeholder interviews; (b) policy review, including relevant McMaster policies and policies at other comparable institutions; and (c) a review of the literature and jurisprudence regarding investigation processes.

The review considered existing investigation processes and made recommendations for improvement. In keeping with the terms of reference for the review, a confidential final report was provided to MUFA and the Administration.¹ At their request, Arbitrator Flaherty has prepared this written summary of the final report.

SUMMARY OF FINDINGS AND RECOMMENDATIONS

The Best Practice Review found that investigation processes at McMaster would be improved by more transparency and better communications. Specifically, Arbitrator Flaherty recommended that McMaster University take the following steps to improve investigation processes under the DHP and SVP:

- Establish a centralized online portal for intake and disclosure, with supports available to complainants upon request.
- Establish a complaint investigation office that is separate from intake offices and the advocacy role they play.
- Provide additional online information about investigation processes, including what happens at each stage, what decision-making is involved, who will make the decision, and what is expected of the complainant and respondent at each stage of the process.

¹ After receiving the report, MUFA and the University Administration inquired whether it could be made available publicly. Arbitrator Flaherty considered the parties' query and concluded that the full report is confidential and cannot be released publicly. This decision was based on the agreed terms of reference for the review, which stipulate that the information collected during the review remains confidential and that the report would be shared confidentially with MUFA and the Administration. Importantly, stakeholders who participated in the review were not advised that the information they provided could be made public. The arbitrator concluded that the report must not be shared in a manner that is inconsistent with the terms of stakeholder participation.

- Ensure that both complainants and respondents receive adequate information and support to navigate the investigation process. Separate support roles should be designated for complainants and respondents to ensure accessibility and confidence in seeking assistance.
- Provide clear written instructions and information about confidentiality.
- Promote and provide more information about Alternative Dispute Resolution (ADR) options.
- Emphasize transparency and clear communication, including about the role of intake staff and the Response Team.
- Establish a smaller and consistent Response Team, to ensure transparency and consistency.
- Ensure that Interim Measures achieve an appropriate balance between protecting the safety of the University community and protecting the interests of the respondents. Establish and communicate clear mechanisms for the ongoing review of Interim Measures.
- Reduce delays by improving access to ADR, establishing service standards, and streamlining the intake and Response Team roles.
- Support restorative measures at the close of the investigation process.
- Engage in collegial discussions to ensure appropriate consideration of academic freedom.
- Ensure adequate resources.
- Enhance reporting mechanisms, including through a standardized case management system.

Many of these measures were also recommended for investigation processes under the RI Policy, specifically: enhanced online resources, supports for both parties, transparency, restoration, and addressing delays. In addition, Arbitrator Flaherty recommended that McMaster take the following specific steps to improve investigation processes under RI Policy:

- Introduce an online portal dedicated to RI Policy complaints.
- Clarify the confidentiality obligations of the Integrity Officer.
- Ensure that the role of the Integrity Officer does not include decision-making powers, including determining whether the complaint is “responsible” and should be referred to investigation.

- Communicate and provide respondents with clear avenues for review of Interim Measures.
- Reconsider the value of elaborate decision-making processes following investigation reports.
- Publish anonymized statistics about complaints on the website, including the number of complaints that are found to be “not responsible”.