

# Report of the Ad Hoc Committee to Implement the Recommendations in the Report of the Committee on Academic Freedom

Presented to the University of Ottawa Senate  
September 19, 2022

## *Background*

In spring 2021, the University of Ottawa asked retired Supreme Court justice Michel Bastarache to chair a committee on issues relating to academic freedom, freedom of expression, the institutional independence of universities, the values of equity, diversity and inclusion and the pursuit of substantive equality. The Committee also considered the legal framework for these issues (hereinafter "the Committee on Academic Freedom"). The Bastarache report was submitted to the University Senate on November 22, 2021, and contained a series of recommendations. On February 14, 2022, the Senate adopted a new resolution to create an ad hoc committee (hereinafter "the Committee") to implement the recommendations in the first report (see [Appendix 1](#) for the resolution text).

## *Ad Hoc Committee composition and timeline*

In accordance with the Senate resolution of February 14, 2022, the Committee was chaired by the dean of the Faculty of Law, Civil Law Section, and comprised of at least two Senate members representing professors and two others representing students. The Committee chair also availed herself of the discretion accorded her by the Senate to appoint two more members to ensure committee diversity, while maintaining professor-student parity.

The Committee was thus comprised of the following members:

<b>Marie-Eve Sylvestre</b>	Chair and Senate member
<b>Francis Bangou</b>	Vice-dean, Faculty of Education, and Senate member
<b>Marc Charron</b>	Vice-dean, Faculty of Arts, and Senate member
<b>Graham Mayeda</b>	Professor, Common Law Section
<b>Linda Diokpa</b>	Graduate student, Faculty of Social Sciences, and Senate member
<b>Reana Agil</b>	Undergraduate student, Telfer School of Management, and Senate member
<b>Harneet Cheema</b>	Undergraduate student, Faculty of Health Sciences, and Senate member
<b>Phillip Chipman</b>	Part-time professor and doctoral candidate, Faculty of Health Sciences

**Annick Bergeron**  
**Sneha Yerrigadoo**

Secretary-general (as a resource person)  
Governance officer

The Committee met seven times between April and September — April 13<sup>th</sup> and 26<sup>th</sup>, May 6<sup>th</sup>, 20<sup>th</sup> and 31<sup>st</sup>, June 16<sup>th</sup> and September 2<sup>nd</sup>. Meetings with the Senate on April 19<sup>th</sup> and June 13<sup>th</sup> also allowed the Chair of the Committee to report on the progress of their work.

Throughout its work, as well as during the extensive consultations which took place in summer of 2022 regarding the statement of principles (see point 1), the Committee paid particular attention to the representation of diverse voices, and in particular, those of the most vulnerable in our community.

#### *The four main areas of work identified by the Committee*

From the start, the Committee agreed to work on a series of four main recommendations drawn directly from the report of the Committee on Academic Freedom. This was first presented to the Senate on April 19<sup>th</sup>, 2022.

#### **1) Preparation of a Senate statement affirming the importance of freedom of expression in a university setting, and the development of a communication plan**

The Committee on Academic Freedom recommended that the University affirm the need to protect academic freedom and freedom of expression (recommendation (f)). It said, in part, that “[w]ithout affecting existing policies, the Committee [on Academic Freedom] recommends that its definitions of these freedoms be shared with the entire University community to produce principles that can be put into practice” (recommendation (a)).

The Committee therefore worked to develop a Senate statement on freedom of expression in a university setting, which is presented in [Appendix 2](#) and will be submitted for adoption by the Senate on September 19<sup>th</sup>, while this report is tabled.

To guide their work, members of the Committee consulted the review of other universities’ regulatory documents conducted by the Committee on Academic Freedom (see Appendix A of the report of the Committee on academic freedom). They also considered various universities’ statements of principle and declarations, as well as the report of the *Commission scientifique et technique indépendante sur la reconnaissance de la liberté académique dans le milieu universitaire* (the Cloutier Commission) and the ensuing Quebec act respecting academic freedom in the university sector (Bill 32).

Discussions first focused on the goals of this statement, as well as its value and scope. These key elements are reflected in the statement preamble. The Committee also paid particular attention to the order in which the different elements were presented and

the status of different stakeholders on the campus (full-time or part-time teaching staff, teaching assistants, students, guests). While this statement is not legally binding, it holds important symbolic value and is meant to speak for the entire University community.

With the support of the Committee members, the chair, Marie-Eve Sylvestre, and the secretary-general, Annick Bergeron, undertook a series of consultations with the following groups and individuals in summer 2022:

Administration Committee of the University	June 15
Dr. Boulou Ebanda de B'Béri, special adviser, anti-racism and inclusive excellence	July 8
Dr. Brenda Macdougall, director, Institute of Indigenous Research and Studies	July 12
Executive committee, University of Ottawa Students' Union (UOSU)	August 18
Executive committee, Graduate Students Association (GSAÉD)	August 18
Executive committee, Canadian Union of Public Employees (CUPE 2626)	August 30
Executive committee, Association of Part-Time Professors of the University of Ottawa (APTPUO)	September 6
Members of the Committee on Academic Freedom	September 6
Association of Professors of the University of Ottawa (APUO)	September 12
Deans	September 13

The statement was then revised and submitted for recommendation to the Executive Committee of the Senate on September 13, 2022.

As for the communications plan, the Committee recommends that the Communications Office publish the statement and this report on the University website and on uOttawa social media once it is adopted by the Senate in September. To ensure better understanding of the importance of the statement and its context, it should be presented jointly with a reminder of the other Committee on Academic Freedom recommendations that are the subject of this report. The Committee also recommends that the Statement be circulated among members of the University community in the weeks that follow. Annual reminders should also be made.

## **2) Development of an action plan to fight racism and discrimination, including cyber-harassment**

The creation of a plan to fight racism and discrimination was a key recommendation of the Committee on Academic Freedom (recommendation (c)). As well, the Committee on Academic Freedom recommended that the University establish standards of conduct regarding cyber-harassment (recommendation (e)). While members of the Committee agreed that this committee wasn't the appropriate forum to develop a full plan on these issues, they wished to ensure that these recommendations would be implemented. To do so, the chair of the Committee met with the former director of the Human Rights Office, Noël Badiou, on May 27<sup>th</sup>, 2022, and held a first meeting with the special adviser, anti-racism and inclusive excellence, Professor Boulou Ebanda de B'béri, on June 2<sup>nd</sup>, 2022, along with the secretary-general, so that they could brief us on their activities and the progress of their work.

Firstly, the Committee emphasizes that there are several protection mechanisms to deal with racism, harassment and discrimination at the University. The Human Rights Office has jurisdiction over matters of harassment and discrimination affecting human rights, including psychological harassment, workplace harassment and sexual violence, under [Policy 67a — Prevention of Harassment and Discrimination](#) and [Policy 67b — Prevention of Sexual Violence](#). Both policies are incorporated by reference in the APUO collective agreement (sec. 8.2.1.2 and sec. 8 more broadly). The APTPUO and CUPE 2626 collective agreements also contain provisions protecting union members from harassment and discrimination (APTPUO sec. 2.3; CUPE 2626 sec. 10 and 11).

As well, on May 1<sup>st</sup>, 2022, [Policy 130 — Student Rights and Responsible Conduct](#) came into effect. This policy protects University students against harassment and discrimination (sec. 4.1a), while requiring them in turn to treat other members of the University community with respect and consideration and to conduct themselves responsibly (sec. 5.1 and 5.2). Breaches of responsible conduct include any harassment, including cyber-harassment, bullying and threats, as well as violations of others' physical and psychological integrity (see [Policy 130, Appendix 3](#)). The Human Rights Office has the jurisdiction to assess breaches of Policy 130, in collaboration with the faculties.

In terms of prevention against racism and discrimination, the University of Ottawa is a signatory to the Scarborough Charter on anti-Black racism and adheres to Joyce's Principle, which seeks to guarantee Indigenous people access to health care and social services without discrimination and calls on institutes of learning to include these principles in their teaching. The University of Ottawa is also part of Dimensions, an initiative funded by the three federal research granting agencies to increase equity, diversity, and inclusion in research. It has also committed to signing the San Francisco Declaration on Research Assessment (DORA) shortly to further inclusion in research.

In June 2022, the special adviser, anti-racism, and inclusive excellence, submitted his final report, which was posted in August on the University's website and on its social media. The report contains 76 recommendations in four strategic areas (student

experience, pedagogy and training, hiring of BIPOC professors, and inclusion in research). Five of these recommendations are high-priority. They are related to data collection, creation of safe spaces, creation of a case management system, decentralization of communication, and the creation of student scholarships.

Finally, we note that on July 18<sup>th</sup>, 2022, the provost and vice-president, academic affairs, announced the creation of a vice-provost or an associate vice-president position responsible for equity, diversity and inclusion. The creation of this position comes in addition to numerous actions taken over several years by faculties at uOttawa. A list of activities and faculty action plans with respect to training, and changes to the curriculum, hiring, recruitment and student support appears in the “Our Campus Is on the Move” section of the special adviser, anti-racism and inclusive excellence’s final report.

### **3) Complaint handling mechanisms and creation of a standing committee to review and implement the policy on academic freedom and freedom of expression**

The Committee on Academic Freedom first recommended that the University community be informed of the existing complaint handling mechanisms and appeal criteria (recommendation (a)). The University has many mechanisms to handle complaints related to freedom of expression or academic freedom. They can be found in the collective agreements, [Policy 130 — Student Rights and Responsible Conduct](#), Policy 67a — Prevention of Harassment and Discrimination, [Policy 67b — Prevention of Sexual Violence and Policy 115 — Responsible Conduct of Research](#). The collective agreements and policies detail the complaint mechanisms and appeal criteria. At the request of the Committee, the Office of the Secretary-General created a table illustrating these various mechanisms (see [Appendix 3](#)).

The Committee on Academic Freedom also proposed the creation of a standing committee to review and implement the policy on academic freedom and freedom of expression (recommendation (b)). While members of the Committee acknowledged at the outset that this recommendation was important and relevant, we also agreed that a new standing committee could not take the place of the collective agreements in effect that already provide for mechanisms to manage individual cases. As such, the standing committee’s mandate must be limited and circumscribed with regard to other current complaint mechanisms. Thus, the standing committee should not have the power to issue penalties or to accept individual complaints related to academic freedom or freedom of expression. In fact, any complaint against a student can be handled through the new Policy 130 — Student Rights and Responsible Conduct, and any complaint against teaching staff (whether it be a full- or part-time professor, or a teaching assistant) should follow the procedure stipulated in the applicable collective agreements.

The standing committee to review and implement the policy on academic freedom and freedom of expression would essentially have a three-part mandate.

Firstly, it would play a role in monitoring and accountability. It would meet at least once a year to provide an update on all complaints related to academic freedom or freedom of expression received through other mechanisms, and report on the number and general nature of these complaints. To do so, while the standing committee would not have access to parties' confidential files, it would handle the aggregate data provided to it by the Office of the Provost and Vice-President, Academic Affairs. The standing committee would then report annually to the Senate and could make recommendations in light of its analysis.

Secondly, the standing committee would play a timely advisory role. It could be convened or sought out as needed by faculty deans or vice-deans, who would submit general or recurrent cases in their faculties to it to receive advice on approaches to take. Again, such requests could only be formulated in general terms and could not address individual cases, to respect the rights of all directly involved provided for in the collective agreements. As well, the standing committee's advice would not be legally binding nor would they bound the faculties, but it could be a useful University resource and constitute a repertoire of best practices at the University of Ottawa or elsewhere in academia.

Lastly, the standing committee could also play an important advisory role in the training and support activities we will address as part of the final area of work (point 4 below).

Like the Ad Hoc Committee, the standing committee must reflect parity between professors and students in its composition. Given the type of questions the committee would handle, it should include a chair with legal expertise, three professors, three students and one specialist in matters of equity, diversity, and inclusion. The chair could appoint another person to ensure linguistic balance and committee diversity. As well, to ensure continuity and, especially, a collective memory regarding these types of questions, the committee members should be named for three-year terms, as much as possible. However, for members' initial terms, we propose two- and three-year terms to avoid a replacement of the entire committee at the same time. As well, the chair could be appointed for a two-year term and remain a committee member for a third year as outgoing chair.

Finally, we recommend that there be an ongoing dialogue between the standing committee on academic freedom, on the one hand, and the offices of the special adviser, anti-racism and inclusive excellence, and of the vice-provost, equity, diversity and inclusion, on the other, to ensure coherent actions.

#### **4) Development of training, consultation, and support programs — group and individual — for professors on academic freedom and on diversity and inclusion**

The Committee on Academic Freedom recommended that training and support regarding academic freedom as well as on diversity and inclusion be developed (recommendations (c) and (d)).

The Ad Hoc Committee proposes that a series of workshops and optional talks for teaching staff (both full-time and part-time professors, as well as teaching assistants) be developed, dealing with the following topics:

- What should we do when conflict breaks out in the classroom? How should we foster and restore trust in the classroom?
- How to teach students to have critical and inquiring minds?
- What do academic freedom and freedom of expression mean in a university setting?
- How do we stimulate classroom discussion while encouraging a diversity of voices?
- Teaching difficult, trauma-inducing topics like sexual violence, racism, discrimination, and colonialism
- Famous university controversies
- Approaches and methodologies that promote inclusive pedagogies

These workshops could be offered in rotation by professors of different faculties or units. While some training could be developed for the entire University community by the Teaching and Learning Support Service (TLSS), certain issues are better understood and discussed on a discipline-specific basis and thus, should be addressed at the faculty or departmental level.

As well, the Committee propose the development of training on the university environment that would be offered to first-year students. This training could be offered by the faculties and integrated into orientation week or into introductory courses in different disciplines. The training would include explanations of what is meant by academic freedom and freedom of expression in a university setting, which is different from other teaching settings students were in before arriving at university (from high school or college). The training could borrow in large part from the Senate statement on freedom of expression in a university setting, as well as from Policy 130 — Student Rights and Responsible Conduct.

### *Conclusion*

The Committee's purpose was to ensure the implementation of the Committee on Academic Freedom's recommendations by formulating concrete solutions taking into account current University structures and policies, and addressing our community's needs and realities. The members of the Committee hope that these suggestions for

action will be useful and allow these fundamental questions to be handled respectfully and equitably.



# APPENDIX 1

## TERMS OF REFERENCE

Senate Ad Hoc Committee for the Implementation of the  
Recommendations of the Report of the Committee on Academic Freedom

### Status

The Senate Ad Hoc Committee for the Implementation of the Recommendations of the Report of the Committee on Academic Freedom was established by Senate resolution on 14 February 2022 (2021-2022-025).

### 1. Terms of Reference

The Committee's mandate will be to present to the Senate an action plan for the implementation of all the recommendations, including:

- a) actions in response to the anti-racism and anti-bullying recommendations, taking into account existing initiatives, policies and regulations at the University.
- b) a statement from the Senate reaffirming the importance of academic freedom and freedom of expression, and the obligations and actions taken by the University to protect them.
- c) the establishment of a Senate Standing Committee on Academic Freedom and the description of its mandate and composition.
- d) proposals for the support of teachers and students.

### 2. Composition

The committee shall be chaired by the Dean of the Faculty of Law - Civil Law Section, who shall appoint as members:

- two faculty senators
- two student senators

The Chair of the Committee may appoint additional members as she deems necessary to ensure the diversity of the Committee's membership by ensuring that parity between student and faculty members is maintained.

### 3. Meetings

The Committee shall meet as frequently as it deems necessary for the fulfilment of its mandate.

### 4. Quorum

A majority of the members shall constitute a quorum.

### 5. Secretariat

Secretariat services are provided by the Office of the Secretary-General.

# APPENDIX 2

*Approved by the Senate on September 19, 2022.*

## Senate Statement on Freedom of Expression in the University context September 19<sup>th</sup>, 2022

### *Background*

In spring 2021, the University of Ottawa asked retired Supreme Court justice Michel Bastarache to chair a committee on issues relating to academic freedom, freedom of expression, the institutional independence of universities, the values of equity, diversity and inclusion and the pursuit of substantive equality, and the legal framework for these issues. The report was tabled at the University Senate on November 22<sup>nd</sup>, 2021, and contained a series of recommendations. On February 14<sup>th</sup>, 2022, the Senate adopted a resolution to create an ad hoc committee to implement the recommendations in the report of the Committee on Academic Freedom. The creation of this statement is in response to one of the main recommendations of that Committee's report, which proposed drafting a statement affirming the importance and necessity of protecting academic freedom and freedom of expression in a university context. The Ad Hoc Committee has also produced a full report of its work on the other recommendations which can be found here.

### *Preamble*

- This Senate statement is addressed first and foremost to the University of Ottawa community. It asserts the importance and the necessity to protect freedom of expression in a university setting and academic freedom, while specifying their limits and the context in which these freedoms are exercised and lived out daily. It seeks the fundamental goals of redress, reconciliation, integration, and inclusion within our community.
- The importance of protecting freedom of expression in a university setting and academic freedom must be seen in light of the University's fundamental mission, that is to create an inclusive environment for teaching and learning, and for knowledge creation and transfer. To achieve this, it is essential that we collectively commit to creating and maintaining an environment that encourages discussion, dialogue, and debate, one that allows for the expression of a diversity of voices, including those that are marginalized and have been historically excluded. This environment should be one of openness to criticism, independence, civility, respect, and intellectual rigour.
- While freedom of expression and academic freedom are related, this statement focuses primarily on freedom of expression in a university setting, which is also protected by Policy 121 on freedom of expression. Academic freedom is clearly defined in Article 9 of the collective agreement between the University of Ottawa and the APUO, in Article 2.5 of the collective agreement between the University of Ottawa and the APTPUO and in Article 21.1 of the collective agreement between the University of Ottawa and CUPE 2626. Nothing in this statement is intended to call into question the definition or scope of academic freedom protected by these agreements.

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### *Statement:*

- We reaffirm the importance and necessity to protect the freedom of expression of all members of the University Community (teaching staff, students, members of the administrative staff, and guests) within the limits set by university policies and regulations, and by the provincial and federal laws that govern us. We recognize and protect free discussion and the development of a critical relationship to knowledge and ideas as essential to the advancement of knowledge. We also reaffirm the University's autonomy and independence from funding agencies, governments and political, economic, and philanthropic actors and entities.
- We condemn racist, discriminatory, and hateful speech and affirm that under no circumstances can a person hide behind freedom of expression, or academic freedom, to justify such speech. We recognize that respect, dignity, and inclusion are essential to learning and to the equal exercise of freedom of expression.
- We recognize and protect teaching staff pedagogical choices, as well as their scholarly approaches and orientations. No word, concept, idea, work, or image can be barred *a priori* from use in a teaching or research context, within the limits prescribed by law.
- We acknowledge the importance of the following elements when implementing principles promoting freedom of expression in a university context: the setting (e.g., classroom, lecture, informal discussion), the statement context (e.g., teaching, research, examination), the status of the speakers (undergraduate or graduate students, full- or part-time professors, teaching assistants, administrative staff, and guests), the audience, and the power relations and inequalities that exist between members of the University community. Freedom of expression must be interpreted in the context of the interdependence of rights, and in particular its connection to the right to equality and dignity.
- We reaffirm and protect the unhindered expression of all voices and promote respectful exchanges in the classroom. Members of the teaching staff who are in position of authority have a particular responsibility in this regard, especially in the context of learning and examination. It is useful to think about how to deal with certain topics, as well as the language that is used and the appropriate moment to do so, in view of the learning objectives pursued and the importance to build trust with learners. It may also be helpful for the instructor to prepare their audience and explain or situate their pedagogical choices. Openness, transparency, and intellectual honesty are paramount.
- We acknowledge that standards and principles applicable to freedom of expression will evolve and change over time, and that we must remain open to reassess them in a respectful manner. We are committed to offering ongoing training and support to all members of our community in this regard.

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### Report of the Ad Hoc Committee to Implement the Recommendations in the Report of the Committee on Academic Freedom

#### Summary of main complaint handling mechanisms<sup>i</sup> (Academic freedom, freedom of expression and related rights)

Basis of complaint	Complainant	Person named in complaint	Applicable mechanism (collective agreement, policy or regulation)	Person or office to contact
<b>Academic freedom</b>	APUO member(s) or APUO (as a union)	APUO member(s) or University (employer)	Section 9 of the APUO collective agreement deals with “academic freedom.” The mechanism to handle members’ complaints over violations of section 9 is the grievance and arbitration process under section 13 of the collective agreement.	APUO (as a union)
	APTPUO member(s) or APTPUO (as a union)	APTPUO member(s) or University (employer)	Section 2.5 of the APTPUO collective agreement deals with “academic freedom.” The mechanism to handle members’ complaints over violations of section 2.5 is the grievance and arbitration process under section 4 of the collective agreement.	APTPUO (as a union)
	CUPE 2626 member(s) or CUPE 2626 (as a union)	CUPE 2626 member(s) or or University (employer)	Section 21.1 of the CUPE 2626 collective agreement deals with “academic freedom.” The mechanism to handle members’ complaints over violations of section 21.1 is the grievance and arbitration process under sections 13 and 14 of the collective agreement.	CUPE 2626 (as a union)

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<p><b>Freedom of expression</b></p>	<p>Students, teaching staff, support staff, visitors</p>	<p>Students, teaching staff, support staff, visitors</p>	<p>Policy 121 — Statement on Free Expression states that “[c]omplaints in connection with this policy should be filed with the appropriate internal body as defined in University policies and regulations.” The Office of the Provost and Vice-President, Academic Affairs, is responsible for this policy and can accept complaints regarding its application. As well, one may have to refer to the specific mechanisms provided for in the collective agreements or University policies, according to the type of violation of freedom of expression as well as the context.</p>	<p>Office of the Provost and Vice-President, Academic Affairs</p>
<p><b>Ethical behaviour</b></p>	<p>Students, teaching staff, support staff</p>	<p>APUO member(s)</p>	<p>Section 10.3 of the APUO collective agreement specifies the obligations of professors who are members of the union towards colleagues, students and other University employees:            “In their actions affecting students, colleagues, or other scholars, as well as any employees of the Employer, Members and representatives of the Employer shall observe commonly accepted norms of fairness and ethical behavior.” (10.3.1)            These obligations include not interfering with the free exchange and dissemination of ideas and information and avoiding any form of discrimination.             Any disclosure made in the application of section 10 must be shared with the dean and handled according to the procedures set out in section 39 (“Disciplinary measures”).</p>	<p>Faculty dean and/or APUO (as a union)</p>
	<p>Students, teaching staff, support staff</p>	<p>APTPUO member(s)</p>	<p>Section 2.6 of the APTPUO collective agreement broadly addresses “ethical behaviour.” Section 2.6.1 states:</p>	

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			<p>"In their actions affecting students, colleagues, or other scholars, as well as any employees of the Employer, members of the bargaining unit and representatives of the Employer shall observe commonly accepted norms of fairness and ethical behaviour."</p> <p>The mechanism for handling complaints against an APTPUO member for a violation of article 2.6 is described in section 6 of the collective agreement.</p>	Faculty dean and/or APTPUO (as a union)
<b>Discrimination, harassment, sexual violence</b>	Students, teaching staff, support staff, visitors, contractors, volunteers	Students, teaching staff, support staff, visitors, contractors, volunteers	<p>All complaints of discrimination, harassment or sexual violence are handled according to the mechanisms provided for under Policy 67a — Prevention of Harassment and Discrimination or Policy 67b — Prevention of Sexual Violence. For example, an allegation of violation of freedom of expression related to grounds such as race, gender, sexual orientation, ethnicity, religious beliefs or political affiliation would fall under the mechanism set out in Policy 67a.</p> <p>These policies are incorporated by reference in the collective agreements.</p>	Human Rights Office and/or applicable union
<b>Student breach of responsible conduct</b>	Students, teaching staff, support staff, members of the University community	Students	<p>Policy 130 — Student Rights and Responsible Conduct describes the mechanism for complaints regarding breaches defined in the policy, including cyberbullying and abusive conduct that harms the physical or mental well-being of a student or other member of the University community or that violates their privacy.</p>	Human Rights Office

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<b>Responsible conduct in research</b>	Students, teaching staff, support staff, visitors	Students, teaching staff, support staff	Policy 115 — Responsible Conduct of Research and Procedure 29-2 — Addressing Allegations of a Breach of Responsible Conduct of Research provide a complaint handling mechanism for alleged violations of responsible conduct standards in research. The policy applies to all members of the University community participating in research under the University's auspices or jurisdiction, regardless of the research location.	Office of Research Ethics and Integrity
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<sup>i</sup> This document is a summary. It has no legal force and cannot be used to interpret the collective agreements, policies and regulations it refers to nor to determine their scope and application.