

## **PUBLIC INTEREST DISCLOSURES BY EMPLOYEES**

### **Background**

The District is committed to the highest standard of ethical and accountable conduct and recognizes the importance of working to deter and detect wrongdoing within the operations of the District, and to promote public confidence in the administration of the District. To ensure this, the District is committed to maintaining a positive and supportive environment whereby employees can disclose potential wrongdoing, or seek advice about disclosing a potential wrongdoing, without retribution, and are provided with clear guidance for how those disclosures may take place.

The District expects that all employees will notify their Supervisor or the Director of Instruction/ Human Resources of any potential wrongdoing within the operation of the District and that the Supervisor or Director of Instruction/Human Resources will investigate such reports without impedance, providing a summary of their findings to the Superintendent, Board Chair or the Commissioner of Public Interest as appropriate.

Under the Public Interest Disclosure Act (PIDA), an employee of the District may make a disclosure of a wrongdoing, which the District will investigate in accordance with these procedures. Under PIDA, no person may make reprisals against an employee for making a disclosure, seeking advice about making a disclosure, or taking any other steps under PIDA, so long as the employee is acting in good faith.

The District is required to establish and maintain, in accordance with PIDA, written procedures for managing and investigating disclosures by employees of the District. Those written procedures are set out herein.

### **Definitions**

- 1. “Designated Officer” means the Superintendent and any other senior member of the School District designated by the Superintendent from time to time, which includes, in accordance with section V. of this Procedure, the Secretary Treasurer, and the Chair of the Board of Education;**
- 2. “Disclosure Form” means the form attached to this Procedure as Appendix 1.**
- 3. “Ombudsperson” means the Ombudsperson of British Columbia;**
- 4. “Policy” means the School District’s Public Interest Disclosure Policy;**
- 5. “Protection Official” means:**
  - a. in respect of a health-related matter, the provincial health officer,**
  - b. in respect of an environmental matter, the agency responsible for the *Emergency Program Act*, or**

- c. in any other case, a police force in British Columbia.
- 6. **“Respondent” means a person against whom allegations of Wrongdoing, or a complaint of reprisal is made;**
- 7. **“School” means**
  - a. a body of students that is organized as a unit for educational purposes under the supervision of a principal, vice principal or director of instruction
  - b. the teachers and other staff members associated with the unit, and
  - c. the facilities associated with the unit,  
and includes a Provincial resource program and a distributed learning school operated by a board;
- 8. **“Supervisor” includes**
  - a. an Employee’s direct management supervisor,
  - b. for School-based Employees, the Principal or any Vice-Principal at the School where the Employee is assigned;
  - c. ;
- 9. **“Urgent Risk” arises there is a reasonable belief that a matter constitutes an imminent risk of a substantial and specific danger to the life, health or safety of persons or to the environment.**

## **Procedures**

- 1. Who May Make a Disclosure
  - 1.1. Any employee may report wrongdoing under this Administrative Procedure if the alleged wrongdoing occurred while the employee was employed or engaged by the District.
  - 1.2. Reports received from members of the public, school trustees, or from employees who were not employed by the District at the time that wrongdoing occurred or is alleged to have occurred are outside the scope of the Policy and this Administrative Procedure.
- 2. How to Make a Disclosure
  - 2.1. An Employee who reasonably believes that a wrongdoing has been committed or is about to be committed may make a disclosure to any of the following:
    - 2.1.1. that person’s Supervisor;
    - 2.1.2. the Superintendent;
    - 2.1.3. a Designated Officer other than the Superintendent; or
    - 2.1.4. The Ombudsperson.

- 2.2. A disclosure is to be submitted in writing using the disclosure form ([Form 403-1](#)) or in other written form, and include the following information if known:
    - 2.2.1. a description of the wrongdoing;
    - 2.2.2. the name of the person(s) alleged to be responsible for or to have participated in the wrongdoing;
    - 2.2.3. the date or expected date of the wrongdoing;
    - 2.2.4. if the wrongdoing relates to an obligation under a statute or enactment, the name of that statute or enactment; and
    - 2.2.5. whether the wrongdoing has already been reported, and if so, to whom and a description of the response received.
  - 2.3. A disclosure may be submitted to the District on an anonymous basis but must contain sufficient information to permit the District to conduct a full and fair investigation into the alleged wrongdoing. If a disclosure does not contain sufficient detail to permit investigation, the District may take no action with respect to the disclosure. Any notices required to be given to a discloser under this Administrative Procedure or the PIDA will not be provided to an anonymous discloser, except at the discretion of the Designated Officer and where the disclosure has provided contact information.
  - 2.4. A discloser who is considering making a disclosure may request advice from any of their union representative or employee association representative, a lawyer, their Supervisor, a Designated Officer, or the Ombudsperson.
  - 2.5. A discloser is not to make a disclosure to a person if the allegations relate, in whole or in part, to wrongdoing by that person, and any person who receives a disclosure or referral and reasonably believes that the allegations of wrongdoing relate to their own acts or omissions must refer the allegations of wrongdoing to another person under this Administrative Procedure with responsibility for receiving a disclosure.
3. How to Make a Disclosure About Urgent Risk
    - 3.1. The PIDA permits Employees to make public disclosures if the employee reasonably believes that a matter poses an Urgent Risk. An Urgent Risk only arises if there is reasonable and credible evidence of an imminent risk of a substantial and specific danger to the life, health or safety of persons or to the environment.
    - 3.2. Before making a public disclosure of an Urgent Risk the employee must:
      - 3.2.1. consult with the relevant Protection Official (public health officer, Emergency Management BC, or police),
      - 3.2.2. receive and follow the direction of that Protection Official, including if the Protection Official directs the Employee not to make the public disclosure,
      - 3.2.3. refrain from disclosing, publishing or otherwise sharing personal information except as necessary to address the Urgent Risk;

- 3.2.4. refrain from disclosing any information that is privileged or subject to a restriction on disclosure under the PIDA or any other enactment of British Columbia or Canada, including legal advice privilege, litigation privilege or another ground of common law privilege, and
      - 3.2.5. seek appropriate advice if the employee is uncertain about what personal Information, privileged or other information may be disclosed as part of a public disclosure.
    - 3.3. An employee who makes a public disclosure in relation to an Urgent Risk is expected to provide timely notification to their Supervisor or the Superintendent about the public disclosure or submit a disclosure in accordance with section 2 above.
    - 3.4. If the employee decides not to make a public disclosure or is directed by a Protection Official not to do so, the employee is nevertheless expected to report Urgent Risks without delay to the Superintendent or a Designated Officer.
  4. Referral of Disclosure to Designated Officer
    - 4.1. Each Supervisor or other personnel who receives a disclosure or referral under this Policy must promptly refer the disclosure or referral, including all disclosures forms ([Form 403-1](#)) and other materials supplied, to the appropriate Designated Officer as follows:
      - 4.1.1. Unless the allegations concern alleged wrongdoing by the Superintendent, the disclosure or referral shall first be referred to the Superintendent, who may delegate their duties under this Administrative Procedure to any other Designated Officer;
      - 4.1.2. Unless allegations concern alleged wrongdoing by the Superintendent, then the disclosure or referral is to be referred to the Secretary Treasurer who shall act as the Designated Officer;
      - 4.1.3. if the allegations made in a disclosure or referral concern alleged wrongdoing by both the Superintendent and the Secretary Treasurer, then the disclosure or referral is to be referred to the Office of the Ombudsperson.
  5. Responsibilities of the Designated Officer
    - 5.1. The Designated Officer is responsible to:
      - 5.1.1. Receive and respond to any disclosure or referral;
      - 5.1.2. Receive and respond to reports made by personnel about Urgent Risks;
      - 5.1.3. If the Designated Officer reasonably believes that an Urgent Risk exists, the Designated Officer may make a report to the relevant Protection Official;
      - 5.1.4. Review allegations of wrongdoing in a disclosure or referral and determine if they fall within the scope of the PIDA or this Policy;

- 5.1.5. Refer disclosures or allegations falling outside the scope of the PIDA or the Policy to the appropriate authority or dispute resolution process, as applicable;
- 5.1.6. If a disclosure relates to wrongdoing at another government body that is subject to the PIDA, refer the disclosure to that institution;
- 5.1.7. Seek clarification of the allegations of wrongdoing from the discloser or referring institution as needed;
- 5.1.8. If appropriate, initiate an investigation into allegations of wrongdoing in accordance with section 7 below;
- 5.1.9. Assess the risk of any reprisal to the discloser, and take appropriate action, if any, to mitigate that risk;
- 5.1.10. Manage communications with the discloser and respondent;
- 5.1.11. Notify the discloser and the respondent of the outcome of the investigation in accordance with clause 7.8.; and
- 5.1.12. Ensure that, in accordance with section 8 of this Administrative Procedure, all personal information received by the District related to the disclosure, referral, request for advice or any investigation is appropriately protected against such risks as unauthorized access, collection, use, disclosure, theft or loss in accordance with FIPPA and the PIDA.

## 6. Responsibilities of Employees

### 6.1. All employees are responsible to:

- 6.1.1. make any disclosures in good faith and on the basis of a reasonable belief that wrongdoing has or is expected to occur;
- 6.1.2. refrain from engaging in reprisals and report all reprisals in accordance with this Administrative Procedure and the PIDA;
- 6.1.3. maintain the confidentiality of personal information received in connection with a disclosure, referral, request for advice or investigation in accordance with the Policy, this Administrative Procedure, and the PIDA;
- 6.1.4. provide their reasonable cooperation with investigations by the District or the Ombudsperson;
- 6.1.5. seek appropriate advice if an employee is uncertain about whether to make a disclosure or a public disclosure of an Urgent Risk; and
- 6.1.6. comply with the requirements of this Administrative Procedure and the PIDA concerning Urgent Risks.

## 7. Investigations

- 7.1. Every person involved in receiving, reviewing and investigating disclosures, referrals or complaints of reprisals must carry out those functions in an expeditious, fair and

proportionate manner as appropriate in the circumstances and as required under the PIDA.

- 7.2. The District shall seek to complete all investigations within 90 calendar days of receipt of a disclosure or referral or complaint of reprisals, but the Designated Officer may shorten or extend this time period depending on the nature and complexity of the allegations.
- 7.3. The Designated Officer may expand the scope of any investigation beyond the allegations set out in the disclosure or referral to ensure that any potential wrongdoing discovered during an investigation is investigated.
- 7.4. All investigations shall be conducted by an internal or external investigator with sufficient qualifications and experience to carry out the Investigation though overall responsibility and accountability for the investigation remains with the Designated Officer.
- 7.5. The Designated Officer may consult with the Ombudsperson regarding a disclosure or referral or refer allegations of wrongdoing in whole or in part to the Ombudsperson, provided that notice of the referral is provided to the applicable discloser.
- 7.6. The Designated Officer may refuse to investigate or postpone or stop an Investigation if the Designated Officer reasonably believes that:
  - 7.6.1. the disclosure or referral does not provide adequate particulars of the wrongdoing;
  - 7.6.2. the disclosure is frivolous or vexatious, has not been made in good faith, has not been made by a person entitled to make a disclosure or referral under the Policy or the PIDA, or does not deal with wrongdoing;
  - 7.6.3. the investigation would serve no useful purpose or could not reasonably be conducted due to the passage or length of time between the date of the alleged wrongdoing and the date of the disclosure;
  - 7.6.4. the investigation of the disclosure would serve no useful purpose because the subject matter of the disclosure is being, or has been, appropriately dealt with;
  - 7.6.5. the disclosure relates solely to a public policy decision;
  - 7.6.6. the allegations are already being or have been appropriately investigated by the Ombudsperson, the District or other appropriate authority;
  - 7.6.7. the investigation may compromise another investigation; or
  - 7.6.8. the PIDA otherwise requires or permits the District to suspend or stop the Investigation.
- 7.7. Subject to the District's obligations under FIPPA and clause 2.3. above, the discloser and the respondent(s) will be provided with a summary of the District's findings, including:
  - 7.7.1. notice of any finding of wrongdoing,

- 7.7.2. a summary of the reasons supporting any finding of wrongdoing;
- 7.7.3. any recommendations to address findings of wrongdoing.

## 8. Privacy and Confidentiality

- 8.1. All personal information that the District collects, uses or shares in connection with a Disclosure, referral, or request for advice, or an investigation shall be treated as confidential and shall be used and disclosed by the District only as described in the Policy, this Administrative Procedure and the PIDA unless otherwise permitted or required under FIPPA or other applicable laws.
- 8.2. Personal information that is collected, used or shared by the District in the course of receiving, responding to or investigating a Disclosure, a request for advice, a referral, or a complaint of a reprisal shall be limited to the personal information that is reasonably required for these purposes.
- 8.3. Any person who receives information about the identity of a Discloser for the purposes of investigating the Disclosure shall maintain the identity of the discloser in confidence, and may only use or share that information for the purposes described in the Policy or the PIDA, except with the consent of the discloser or as authorized or required by the PIDA or other applicable laws.
- 8.4. The District shall ensure there are reasonable security measures in place to protect all personal information that the District collects or uses in the course of receiving or responding to a disclosure, a request for advice, a referral, or complaint of a reprisal or conducting an investigation, including by ensuring that such information is subject to appropriate controls to ensure that it is only shared by its employees internally on a need-to-know basis.

## 9. Reprisals

- 9.1. The District will not tolerate reprisals against employees.
- 9.2. Any employee who believes that they have been the subject of a reprisal may make a complaint to:
  - 9.2.1. the Ombudsperson, who may investigate in accordance with the procedures set out in the PIDA;
- 9.3. Any person who engages in any reprisals shall be subject to disciplinary action up to and including dismissal.

Reference: Sections 17, 18, 20, 22, 23, 65, 85 School Act  
Freedom of Information and Protection of Privacy Act  
Public Interest Disclosure Act  
[Form 403-1](#)  
[Policy 21](#)

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