

D1002 - PUBLIC INTEREST DISCLOSURE PROCEDURES

Objectives

The Public Interest Disclosure Procedures establish the internal procedures by which the College will implement its Public Interest Disclosure Policy D1002 and its obligations under PIDA.

Who May Make a Disclosure

1. Employees and former employees and members of the Board of Governors of the College may disclose wrongdoing under the policy and may request advice on doing so.
2. Members of the public, volunteers, or students (or former employees who were not employed by the College at the time the wrongdoing occurred or was discovered) may not disclose a wrongdoing under the policy.

How to Ask for Advice

1. An employee may request advice about making a disclosure or a complaint about reprisal from:
 - a) the employee's union representative or employee association representative as applicable;
 - b) a lawyer retained by the employee;
 - c) the employee's Supervisor;
 - d) the Designated Officer(s); or
 - e) the BC Ombudsperson.
2. PIDA protects from reprisal an employee who requests advice about making a disclosure regardless of whether they make a disclosure or not.
3. A Supervisor or Designated Officer may require that requests for advice be made to them in writing.
4. A Supervisor or Designated Officer must review and respond to a request for advice with appropriate assistance and consultation. A Supervisor or Designated Officer who receives a request for advice shall seek to respond, where practicable, in writing and within 20 business days of receiving the request.

How to Make a Disclosure

1. An employee who in good faith reasonably believes that a wrongdoing has been committed or is about to be committed may make a disclosure to any of the following:
 - a) their Supervisor;
 - b) the Designated Officer responsible for receiving disclosures; or
 - c) the BC Ombudsperson.
2. Disclosures should be made in a reasonably timely manner following the date that the discloser becomes aware of the wrongdoing or anticipated wrongdoing.

3. A disclosure must be in writing using the PIDA Disclosure Form and include the following information, if known:
 - a) a description of the wrongdoing;
 - b) the name of the person(s) alleged to have committed the wrongdoing, or to be about to commit the wrongdoing;
 - c) the date or expected date of the wrongdoing;
 - d) whether information or conduct that is being disclosed relates to an obligation under a statute and, if so, the name of that statute; and
 - e) whether the wrongdoing has already been reported and, if so, the name of the person to whom it was reported and the response, if any, that the discloser received.

A disclosure that is being delivered to a Designated Officer must either be sent by email to [TBD-dedicated email address], or by regular mail to [TBD-address].

Anonymous Requests and Disclosures

1. An employee may anonymously request advice about making a disclosure and anonymously make a disclosure.
2. Employees who make anonymous disclosures may not be informed of any further developments, at the sole discretion of the College. Anonymity may also impact a response to the request for advice and/or investigation of the disclosure.

How to Make a Public Disclosure about Urgent Risk

1. PIDA allows employees to make public disclosures under limited circumstances. Employees making public disclosures must meet the following conditions:
 - a) the employee reasonably believes there is a matter that constitutes an imminent risk of a substantial and specific danger to the life, health, or safety of persons or to the environment;
 - b) the employee has consulted with the relevant Protection Official as defined in the policy before making the disclosure;
 - c) the employee has received direction from that Protection Official to make the disclosure and is following it;
 - d) the employee does not disclose or share anyone's personal information except as necessary to address the urgent risk; and
 - e) the employee does not disclose any information that is privileged or subject to a restriction on disclosure under PIDA or another enactment of British Columbia or Canada, including solicitor-client privilege, litigation privilege or another ground of common law privilege, or public interest immunity.
2. The employee must not make a public disclosure if the Protection Official directs them not to do so.
3. Employees are expected to obtain appropriate advice if they are uncertain about what information may be disclosed as part of a public disclosure.

4. An employee who makes a public disclosure must, immediately following the public disclosure, notify their Supervisor or the Designated Officer about the public disclosure, and submit a disclosure in accordance with the procedures outlined above (*How to Make a Disclosure*). The Designated Officer will contact Strategic Communications and Marketing following a public disclosure.
5. When an employee does not make a public disclosure, by choice or by direction, the employee is nevertheless expected to report their concerns without delay to the Designated Officer.

Receiving and Reviewing Disclosures

1. Upon receiving a disclosure, the Supervisor or Designated Officer must date stamp the report and follow any other process established for receiving disclosures.
2. The Designated Officer must ensure that they review the disclosure in a timely manner.

Referral of Disclosure to Designated Officer

1. A Supervisor or Designated Officer who receives a disclosure must promptly refer the disclosure, as applicable, including all forms, documents, and other materials supplied by the discloser, as follows:
 - a) unless the allegations concern alleged wrongdoing by the President, a member of the Board of Governors, or the Designated Officer, the disclosure shall be referred to the Designated Officer, who may delegate their duties;
 - b) if the allegations made in a disclosure concern alleged wrongdoing by the Designated Officer, the disclosure shall be referred to the President;
 - c) if the allegations made in a disclosure concern alleged wrongdoing by the President, a member of the Board of Governors (or either/both and the Designated Officer), then the disclosure shall be referred to the Chair of the Board of Governors as the Designated Officer;
or
 - d) if the allegations made in a disclosure concern wrongdoing by all of the officials listed in subparagraphs (a), (b) and (c), or the Chair of the Board of Governors, then the disclosure will be referred to the Ombudsperson.

Review and Determination of Whether an Investigation is Warranted

1. After a disclosure is received from any source, including referral from a Supervisor, the Designated Officer will conduct a preliminary review of the disclosure and decide within 20 days whether an investigation is required and the form of the investigation.
2. Whether or not the disclosure will be investigated, the Designated Officer must assess each disclosure received for the risk of reprisal against the discloser.
3. The Designated Officer may communicate with and request information from the discloser in order to determine the risk of reprisal and whether an investigation is warranted.
4. If the Designated Officer reasonably believes there is an urgent risk arising from the information provided in a disclosure, they may report the matter to an appropriate Protection Official.

Where an Investigation is Not Warranted

1. The Designated Officer may elect not to proceed with an investigation or to stop an investigation at any time if the Designated Officer reasonably believes:
 - a) the disclosure was not made by an employee, former employee, or member of the Board of Governors of the College;
 - b) the allegations, if proven, do not constitute wrongdoing;
 - c) the disclosure relates primarily to:
 - i. a dispute between the employee and the College about their employment;
 - ii. a law enforcement matter being addressed by the police force;
 - iii. a matter relating to the prosecution of an offence; or
 - iv. the exercise of an adjudicative function of a court, tribunal, or other statutory decision-maker, including a decision or the processes and deliberations that have led or may lead to a decision;
 - d) the disclosure does not provide adequate particulars of the wrongdoing;
 - e) the disclosure is frivolous or vexatious or has not been made in good faith;
 - f) 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;
 - g) the disclosure relates solely to a public policy decision;
 - h) the disclosure is already being or has been appropriately investigated by the Ombudsperson, the College, or other appropriate authority; or
 - i) PIDA otherwise requires or permits the College to stop or suspend the investigation.
2. If the Designated Officer determines that the disclosure does not warrant investigation under the policy and these procedures, but involves a matter that may be appropriately addressed through another process (including the grievance process), the Designated Officer will re-direct the matter to the entity responsible for that process.
3. The Designated Officer may refer a disclosure to the BC Ombudsperson and law enforcement, considering factors such as:
 - a) whether the subject matter of the disclosure would be more appropriately dealt with by another authority;
 - b) the complexity of the subject matter of the disclosure;

- c) whether a real or perceived conflict of interest exists;
 - d) the availability of resources and expertise required to conduct a fair and effective investigation; and
 - e) if the subject matter relates to an individual with authority over the Designated Officer.
4. The Designated Officer may postpone or suspend an investigation if the Designated Officer:
 - a) reports to a law enforcement agency an alleged offence they have reason to believe has been committed in relation to the disclosure;
 - b) considers that the investigation may compromise another investigation; or
 - c) the alleged wrongdoing is also being investigated for the prosecution of an offence.
5. The Designated Officer will notify the discloser and, if appropriate, the respondent(s), if the Designated Officer refuses, stops, postpones or suspends an investigation, or refers the investigation to another process or authority, including the reasons for the decision. The Designated Officer will also notify the President. If the President is alleged to be responsible for the wrongdoing, the Designated Officer will also notify the Chair of the Board of Governors and any other person required by PIDA.

Investigations of Wrongdoing

1. Every person involved in investigations must carry out their functions in an expeditious, fair, and proportionate manner as appropriate in the circumstances, as required under PIDA, and consistent with applicable provisions of a collective agreement, terms of employment, or employment agreement.
2. Investigations will be conducted in accordance with the principles of procedural fairness and natural justice, and in accordance with applicable legislation, policy, and agreements. Respondents of the disclosure will be informed of the nature of the allegations and will have an opportunity to respond to the allegations.
3. Where the Designated Officer decides that an investigation is warranted, the Designated Officer will manage the investigation, with appropriate assistance and consultation, depending on the nature of the disclosure, and will notify the discloser of the decision to begin an investigation in compliance with sections 9(2)(g)(i) and 21(1)(a) of the Act.
4. Subject to the procedures outlined in the above section, *Where an Investigation is not Warranted*, the Designated Officer may expand the scope of an investigation beyond the allegations set out in the disclosure or complaint about reprisal to ensure that any potential wrongdoing discovered during an investigation is investigated. If the Designated Officer receives more than one disclosure with respect to the same or similar wrongdoing, they may conduct a single investigation into the alleged wrongdoing.
5. The Designated Officer shall seek, where practicable, to review disclosures within 20 business days and to investigate disclosures within 120 business days. The Designated Officer may shorten or extend this time period depending on the nature and complexity of the allegations.

6. The Designated Officer may seek assistance from the Ombudsperson for an investigation or refer a disclosure in whole or in part to the Ombudsperson as long as notice of the referral is provided to the discloser.

Reporting the Results of an Investigation

1. The Designated Officer will provide a report on the findings of the investigation, reasons, and any recommendations to the President or, in the case of an investigation involving the President, to the Chair of the Board of Governors.
2. The Designated Officer will ensure that any corrective actions recommended are implemented in accordance with relevant legislation, policy, and agreement. The Designated Officer is not required to hold a hearing.
3. Subject to the College's obligations under the *Freedom of Information and Protection of Privacy Act*, the Designated Officer will attempt to provide an appropriate summary report to the discloser and the respondent(s) within 20 business days of completing the investigation. The Designated Officer is not obliged to provide such a report to a discloser who submits a disclosure anonymously.

Privacy and Confidentiality

1. For the policy and these procedures to function as intended, everyone involved in a request for advice, disclosure, complaint about reprisal, or investigation must protect privacy and confidentiality.
2. Employees must take reasonable precautions to ensure that they do not disclose any personal information in a request for advice, disclosure, or complaint about reprisal, beyond what is reasonably necessary.
3. For further clarity, employees must maintain strict confidentiality with respect to all personal information (including the identity of those involved) related to a request for advice, disclosure, complaint about reprisal, or investigation, and must not disclose such information except as authorized under PIDA. If employees have any questions about their confidentiality obligations, they are encouraged to ask the Designated Officer.
4. Supervisors and the Designated Officer must advise employees who request advice, make a disclosure or complaint about reprisal, or participate in an investigation about these obligations.
5. Supervisors and the Designated Officer must collect, use, and disclose personal information, particularly if it may reveal the identity of a discloser or respondent, only as necessary to fulfill their responsibilities under PIDA, or as otherwise permitted by PIDA. This includes complying with other applicable laws and agreements and ensuring a fair and appropriate investigation.

No Reprisal

1. The College will not tolerate reprisals against employees who, in good faith, request advice, make disclosures, or cooperate in an investigation, or contractors that cooperate in an investigation, in accordance with the policy and these procedures or PIDA. This includes reprisals resulting from complaints about reprisals. A reprisal may include a disciplinary measure, demotion, termination of employment, any other measure that adversely affects the employee's employment or working conditions, or any threat to do the same or, in the case of a contractor, termination or non-renewal

of their contract(s) or withholding payment. This protection does not apply to protect an employee or contractor from the management or termination of their employment or contractual relationship, respectively, unrelated to their exercise of their rights under PIDA.

2. An employee who believes that they have been the subject of a reprisal may complain to the Ombudsperson, who may investigate and make recommendations to address a reprisal in accordance with PIDA.

Forms Associated with this Procedure

PIDA Disclosure Form
PIDA Disclosure Process Map

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