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## Whistleblower Protection

### Background

The Board and staff are committed to promoting ethical and accountable conduct, and recognize the importance of working to deter and detect wrongdoing within the operations of the school division, and advancing public confidence in the administration. As such, the Board is committed to maintaining a positive and supportive environment whereby employees can disclose potential wrongdoing, or seek advice about disclosing a potential wrongdoing, without fear of reprisal.

Employees have a duty to report wrongdoings or suspected wrongdoings to the Superintendent of Schools (Chief Executive Officer).

On June 1, 2013, the Public Interest Disclosure (Whistleblower Protection) Act (“PIDA”) came into force in Alberta. The purpose of PIDA is to:

- facilitate the disclosure and investigation of significant and serious matters in public entities, including school boards, that an employee believes may be unlawful, dangerous to the public, or injurious to the public interest;
- protect employees who make those disclosures;
- manage, investigate and make recommendations respecting disclosures of wrongdoings and reprisals, and
- promote public confidence in the administration of public entities. In accordance with Section 5(1) of PIDA the Board is required to establish and maintain written procedures for managing and investigating disclosures by employees. Those written procedures are set out herein.

### Definitions

**Chief Officer** - The Superintendent of Schools is designated as the “Chief Officer” for the purpose of the overall administration and reporting required under PIDA.

**Designated Officer** - The Assistant Superintendent of Operations is designated as the “Designated Officer” to manage and investigate disclosures under PIDA.

**Wrongdoing** - A wrongdoing is defined as one of the following, within or relating to the Board or its employees:

- a contravention of an Act of Alberta or Canada or the regulations made pursuant to those Acts;
- an act or omission that creates a substantial and specific danger to the life, health or safety of individuals other than a danger that is inherent in the performance of the duties or functions of an employee, or a substantial and specific danger to the environment;
- gross mismanagement of public funds or a public asset;
- the delivery of a public service, including the management or performance of

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- a contract or arrangement identified or described in the regulations, including the duties resulting from the contract or arrangement or any funds administered or provided under the contract or arrangement,
  - the duties and powers resulting from an enactment identified or described in the regulations or any funds administered or provided as a result of the enactment,
  - employees, by a pattern of behaviour or conduct of a systemic nature that indicates a problem in the culture of the organization relating to bullying, harassment or intimidation.
  - knowingly directing or counseling an individual to commit a wrongdoing mentioned above

**Reprisals** - A reprisal is any adverse employment action including:

- dismissal, layoff, suspension, demotion, transfer, discontinuation or elimination of a job:
- change of job location, reduction in wages, changes in hours of work, reprimand:
- or any other measure that adversely affects the employee's employment or working conditions, including threats to do any of the above.

No person shall take or direct, or counsel or direct a person to take or direct, any of the following measures against an employee because the employee has, in good faith, sought advice about making a disclosure, made a disclosure, co-operated in an investigation under PIDA, declined to participate in a wrongdoing or done anything in accordance with PIDA.

An employee may make a written complaint to the Public Interest Commissioner ("Commissioner") if the employee alleges that a reprisal has been taken or directed against the employee. The written complaint must, be made on the prescribed PIDA Complaint or Reprisal Form.

No action lies against the Board or an employee of the Board for making a reasonable human resource management decision in good faith.

## **Procedures**

### ***Disclosures of Wrongdoing***

1. Employees seeking advice on potential disclosure under PIDA and this Policy shall be referred to the Designated Officer, who shall provide the employee with information on PIDA, this Policy, the requirements of PIDA and this Policy, and other alternative processes for resolution of the employee's concern.  
Or

Disclosure to be made directly to the Public Interest Commissioner in the

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- first instance.
2. An employee who reasonably believes that he or she has information that could show that a wrongdoing has been committed or is about to be committed, or who has been asked to commit a wrongdoing, may make a disclosure to the Designated Officer.
  3. At the time an employee makes a disclosure to the Designated Officer, the Employee may also make the disclosure to the Commissioner and advise the Commissioner that the disclosure has been made to the employee's Designated Officer. Further information can be obtained by visiting the Commissioners website at [www.yourvoiceprotected.ca](http://www.yourvoiceprotected.ca).
  4. An employee may only disclose directly to the Commissioner and circumvent their chief officer and designated officer if:
    - 4.1 The employee has made a disclosure in accordance with the expectations of this policy and an investigation has not been completed in accordance with these procedures;
    - 4.2 The employee has made a disclosure in accordance with the expectations of the disclosure requirements of this policy and the matter has not been resolved within the timelines established within these procedures;
    - 4.3 The employee has made a disclosure to the designated officer, but is unable to complete the disclosure requirements because of a reprisal directed towards the employee, or reasonably believes a reprisal is likely to be taken or directed towards them should the disclosure be made in accordance with these requirements;
    - 4.4 The employee reasonably believes that a matter constitutes an imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the environment, such that there is insufficient time to make a disclosure to the Designated Officer, the Employee may make a complaint directly to the Commissioner. The employee must also disclose the wrongdoing to the Designated Officer as soon as practicable thereafter.
    - 4.5 The employee has made a disclosure in accordance with this Policy, the investigation has been completed, a final decision has been issued in respect of the disclosure and the employee is dissatisfied with the decision;
    - 4.6 The subject matter of the disclosure involves the employee's chief officer or designated officer.
  5. In the event that disclosure to the Designated Officer is not appropriate due to a conflict of interest with respect to the nature of the disclosure or the person involved, the Designated Officer shall refer the matter to the Chief Officer.
  6. In the event of a disclosure to the Designated Officer concerning the conduct of the Chief Officer, or concerning which the Chief Officer has a conflict of interest, the Designated Officer shall:
    - 6.1 advise the Board Chair of the nature of the disclosure, whereupon the Board may authorize an investigation into the disclosure;

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- 6.2 advise the Commissioner of the disclosure and its referral to the Board and seek advice from the Commissioner concerning whether the disclosure should be referred to the Commissioner.
  7. If the Designated Officer reasonably believes that the matter to which the disclosure relates constitutes an imminent risk of a substantial or specific danger to the life, health or safety of individuals, or to the environment, the Designated Officer shall as soon as reasonably practicable refer the disclosure to the Commissioner.
  8. Notwithstanding whether a disclosure is referred to the Commissioner, where the Designated Officer is aware of:
    - 8.1 a disclosure relating to an imminent risk of a substantial or specific danger to the life, health or safety of individuals, or to the environment, or
    - 8.2 that the alleged wrongdoing, if true, may threaten the welfare of students, staff, or the safe and caring environment of the school, the Designated Officer shall also ensure that appropriate persons within the Board have sufficient information to abate that risk.
  9. Where at any point following a disclosure, the Designated Officer has reason to believe that the alleged wrongdoing, if true, could potentially give rise to the Superintendent being of the opinion that the welfare of students is threatened by the presence of the teacher, the Designated Officer shall advise the Superintendent of the alleged wrongdoing for consideration of a possible administrative suspension under section 105(2) of the School Act.
  10. Where in the course of an investigation, the Designated Officer has reason to believe that an offense has been committed under an Act or regulation of the Province of Alberta, or under an Act or regulation of the Parliament of Canada, the Designated Officer shall report the potential offense to the appropriate law enforcement authorities.
  11. If more than one disclosure of wrongdoing is received by the Designated Officer in respect to the same matter, a single investigation may be conducted into the wrongdoing.
  12. Where, in the course of an investigation, the Designated Officer has reason to believe that another wrongdoing has been committed or may be committed; the Designated Officer shall investigate that other potential wrongdoing as if a disclosure had been made.
  13. Anonymous disclosures will be dealt with in accordance with the provisions of this procedure.

### ***Investigations***

1. The designated officer may request advice from the Commissioner with respect to the management and investigation of a disclosure.
2. Upon receiving a disclosure, the Designated Officer shall make a decision whether to investigate.
3. Where the designated officer is of the opinion that the subject matter of a disclosure would be more appropriately dealt with by a department of the Government of Alberta, an office of the Legislature, or another public entity,

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- the Designated Officer shall report the subject matter of the disclosure to the Designated Officer of that other entity.
4. Should the subject matter of the disclosure be more appropriately dealt with according to another policy or procedure of the Board, another Act, or regulation, or procedures under a collective agreement or employment contract, the Designated Officer may decline to investigate under the parameters of this policy.
  5. The Designated Officer may utilize both internal personnel and external resources, for the purpose of conducting the investigation.
  6. The Designated officer, and any person conducting an investigation on their behalf, may interview any person and shall have access to any document of the Board necessary for the investigation.
  7. The Designated Officer shall ensure all disclosures, and information gathered in the course of investigating disclosures, including the identity of the person making the disclosure, those alleged to have committed the wrongdoing and witnesses, are maintained in confidence and disclosed only:
    - 7.1 as necessary for this policy and to conduct the investigation in accordance with the principles of procedural fairness and natural justice;
    - 7.2 in accordance with PIDA or any other statute;
    - 7.3 if the disclosure of that information is necessary due to an imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the environment.
  8. Investigations shall be conducted in accordance with the principles of procedural fairness and natural justice
  9. The Designated Officer may decline to investigate where the disclosure:
    - 9.1 is clearly frivolous or vexatious, not been made in good faith, has not been made in a timely enough manner to permit an investigation, or does not deal with a wrongdoing;
    - 9.2 relates to a decision, action or matter that results from a balanced and informed decision-making process on a public policy or operational issue; or
    - 9.3 does not provide adequate particulars about the wrongdoing to permit the conduct of a fair and effective investigation.
  10. The Designated Officer is not required to investigate a disclosure or, if an investigation has been initiated, may discontinue the investigation if more than 2 years has passed since the date that the wrongdoing was discovered.

### ***Timelines***

1. The Designated Officer shall acknowledge receipt of the disclosure or complaint of reprisal to the employee making the disclosure or complaint within five (5) business days from receipt of the disclosure or complaint. An employee who submitted a disclosure of wrongdoing or complaint of reprisal shall be advised, no more than 10 business days from the date on which the disclosure of wrongdoing or complaint of reprisal is received, whether an

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- investigation will be undertaken.
  2. The investigation must be concluded and the investigation report provided to the Chief Officer not more than 110 business days from the date on which the disclosure of wrongdoing or complaint of reprisal was received.
  3. These timelines may be extended by the Chief Officer provided that the total extensions granted do not exceed the overall time period for investigation and provision of the investigation report by more than 30 business days, or for a longer period of time if permitted by the Commissioner.

### ***Report***

1. The Designated Officer shall provide a written investigation report to the Chief Officer detailing whether the disclosure was substantiated, and provide recommendations on corrective action.
2. Designated Officers report matters of imminent risk to the life, health or safety of individuals or the environment, to:
  - an appropriate law enforcement agency;
  - in the case of a health-related matter, to the Chief Medical Officer of Health;
  - to the department, public entity or office responsible for managing, controlling or containing the risk, if any; and
  - to a person identified in the procedures created by the Chief Officer.All investigations into the matter be suspended until it has been finally disposed of by a law enforcement agency or the Minister of Justice and Solicitor General.
3. Where the Designated Officer is considering a recommendation to the Superintendent that the Superintendent exercise authority delegated to him or her by the Board to suspend or terminate a teacher or administrative designation under the School Act, the Designated Officer shall consult with other board staff typically responsible for such recommendations concerning the necessary process. In such event, the written investigation report shall be provided to the Superintendent in the course of any process under the School Act for the Superintendent to consider that recommendation.
4. The Chief Officer shall consider the recommendations in the investigation report, and shall be responsible for determining what action, if any, including disciplinary action, shall be taken. The Chief Officer shall follow up with the employees responsible to ensure those actions are taken.
5. The person making the complaint shall be advised when the investigation is completed, the recommendations made in the written investigation report, and the Chief Officer's actions resulting from the written investigation report.

### ***Good Faith***

1. An employee who submits a disclosure of wrongdoing or complaint of reprisal must act in good faith. Good faith describes that state of mind denoting honesty of purpose, being faithful to one's duty or obligation, or an honest intention to abstain from taking any advantage of another.
2. An employee who knowingly makes deliberately false and/or malicious

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allegations of wrongdoing may be subject to disciplinary action up to and including termination of employment.

***Annual Reporting***

1. The Chief Officer will prepare an annual report on all disclosures that have been made to the designated officer. This report will be posted annually on the Division web site by January 30th of each year. The annual report will include the following information:
  - 1.1 the number of disclosures received by the designated officer;
  - 1.2 the number of disclosures acted on; and
  - 1.3 the number of disclosures not acted on by the designated officer;
  - 1.4 the number of disclosures commenced by the designated officer as a result of disclosures;
  - 1.5 in the case of an investigation that results in a finding of wrongdoing, a description of the wrongdoing and any recommendations made or corrective measures taken in relation to the wrongdoing or the reasons why no corrective measure was taken.

***Policy Communication***

1. The Chief Officer will ensure that this policy is reviewed with all employees and made accessible to them prior to the start of each school year.