

Public Interest Disclosure Procedures

A. OBJECTIVES

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

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C. DEFINITIONS

The terms used in these Procedures have the same meaning have the same meaning as set out in the *Public Interest Disclosure Act*, except as further defined below:

1. **Employee:** refers to a past or present employee of Selkirk College.
2. **Designated Officer:** means the following senior official designated to do the following or, in the event the senior official designated is disqualified from acting, the official who is responsible under the section *Referral of Disclosure to Designated Officer* in the Procedures to:
 - a) Receive requests for advice: Privacy & Risk Officer Receive and investigate disclosures: Privacy & Risk Officer
 - b) Receive disclosures related to environmental matters: Privacy & Risk Officer
3. **Disclosure:** means a report of Wrongdoing made under this Policy;

4. **Investigation:** means an investigation of a Disclosure undertaken by Selkirk College under this Policy or by the Ombudsperson under PIDA;
5. **Procedure:** means Selkirk's Protected Disclosure Procedures associated with this policy;
6. **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, an appropriate police force in British Columbia.
7. **Reprisal** means:
 - a) In respect of an Employee: the imposition of, and any threats to impose, a disciplinary measure, a demotion, a termination of employment, or any measure that adversely affects the employee's employment or working conditions because they made a Disclosure or sought Advice or made a complaint about a Reprisal.
 - b) In respect of a contractor, terminating a contract or agreement, withholding a payment that is due and payable under a contract or agreement, or refusing to enter into a subsequent contract or agreement.
8. **Respondent:** means a person about whom allegations of Wrongdoing are made;
9. **Supervisor** means:
 - a) for employees, the employee's administrator, manager or supervisor, as applicable;
 - b) for directors or officers, the Chair of the Board of Governors.
10. **Wrongdoing** has the meaning described above under the heading "Scope".

D. WHO MAY MAKE A DISCLOSURE

1. Employees and former employees, directors and officers of the Institution may disclose Wrongdoing under this Policy and may request advice on doing so.
2. This Policy does not apply to members of the public, volunteers, students, or to former employees who were not employed by the Institution at the time the Wrongdoing occurred or was discovered.

E. 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;
 - c) the employee's Supervisor;
 - d) the Designated Officer(s); or
 - e) the BC Ombudsperson.
2. PIDA protects an employee who requests advice about making a Disclosure from reprisal regardless of whether they make a Disclosure.

3. A Supervisor or Designated Officer may require that requests for advice made to them are made 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 unless a shorter time period is required by an applicable collective agreement.

F. 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 timely manner.
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 be 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:
disclosure@selkirk.ca

G. ANONYMOUS REQUESTS AND DISCLOSURES

1. Requesting advice about making a Disclosure and making a Disclosure may be done anonymously.
2. Employees considering anonymous Disclosures should be aware that the person receiving the Disclosure may be unable to seek clarification or further information from them, which may impact a response to the request for advice and/or Investigation of the Disclosure. Similarly, an anonymous discloser may not be notified further about an Investigation under this Procedure.

H. HOW TO MAKE A 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 (public health Official, Emergency Management BC, or police as defined in this Policy) before making the Disclosure;
 - c) the employee has received direction from that Protection Official and is following it, including if the Protection Official directs the employee to not make a public disclosure;
 - 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. Employees are expected to obtain appropriate advice if they are uncertain about what information may be disclosed as part of a public disclosure.
3. 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 *How to Make a Disclosure* above.
4. If the employee does not wish to make a public disclosure or is directed by a Protection Official not to do so, the employee is nevertheless expected to report their concerns without delay in accordance with this Policy.

I. 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 the Disclosure is reviewed in a timely manner in accordance with this Procedure.

J. REFERRAL OF A 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 Designated Officer, the Disclosure shall be referred to the Designated Officer, who may delegate their duties under this Policy;
- b) if the allegations 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(s)), 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.

K. 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 10 days whether an Investigation is required and the form of the Investigation. The Designated Officer must assess each Disclosure received for the risk of reprisal against the discloser (regardless of whether the Disclosure will be investigated).
2. The Designated Officer may communicate with and request information from the discloser in order to make this determination.
3. 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.

L. 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 as defined in the Policy;
 - b) the allegations, if proven, do not constitute Wrongdoing;
 - c) the Disclosure relates primarily to:
 - i. a dispute between the employee and the Institution 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 Institution or other appropriate authority; or
 - i) PIDA otherwise requires or permits the Institution to stop or suspend the Investigation.
- 2. If the Designated Officer determines that the Disclosure does not warrant Investigation under this Policy but involves a matter which 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 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 they refuse, stop, postpone or suspend an Investigation or refer the Investigation to another process or authority, including the reasons for the decision. The Designated Officer will also notify the President unless the President is alleged to be responsible for the Wrongdoing, in which case the Designated Officer will notify the Chair of the Board of Governors and any other person required by PIDA.

M. INVESTIGATION OF WRONGDOING

- 1. Every person involved in Investigations under this Policy must carry out their functions in an expeditious, fair and proportionate manner as appropriate in the circumstances, as required under the PIDA and in accordance with applicable obligations under a collective or employment agreement.

2. Investigations will be conducted in accordance with the principles of procedural fairness and natural justice and conducted 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.
4. Subject to the provisions of the *Where an Investigation is not Warranted* section above, 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 more than one Disclosure is received with respect to the same or similar Wrongdoing, a single Investigation into the alleged Wrongdoing may be conducted.
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 provided that notice of the referral is provided to the discloser.

N. 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 Institution's obligations under FIPPA, the Designated Officer will seek to provide an appropriate summary report within 20 business days of the Investigation being completed to the discloser and the Respondent(s). The obligation to provide such a report does not apply to a discloser who submits a Disclosure anonymously.

O. PRIVACY AND CONFIDENTIALITY

1. For the Policy and Procedures to function as intended, everyone involved in a request for advice, Disclosure, complaint about reprisal or Investigation must protect confidentiality and privacy.

2. Employees must take reasonable precautions to ensure that personal information is not disclosed in a request for advice, Disclosure or complaint about reprisal beyond what is reasonably necessary.
3. 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 under the Policy and Procedures and must not disclose such information. 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 only collect, use and disclose personal information, particularly if it may reveal the identity of a discloser or Respondent, necessary to fulfill their responsibilities under PIDA or as otherwise permitted by PIDA, including to comply with other applicable laws and agreement and ensure a fair and appropriate Investigation.

P. NO REPRISAL

1. The Institution will not tolerate reprisals against employees who request advice, make Disclosures or complaints about reprisal, or cooperate in an Investigation, or contractors that cooperate in an Investigation, in accordance with this Policy or the PIDA. 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 make a complaint to the Ombudsperson, who may investigate and make recommendations to address a reprisal in accordance with PIDA.

Q. FORMS ASSOCIATED WITH THIS PROCEDURE

- a. Public Interest Disclosure Form

R. RELATED LEGISLATED REFERENCES

[BC Public Interest Disclosure Act](#)

[College and Institute Act](#)

[Criminal Code of Canada](#)

[Freedom on Information and Protection of Privacy Act](#)

[Emergency and Disaster Management Act](#)