

# Procedures

## PUBLIC INTEREST DISCLOSURE PROCEDURES

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**Procedural Officer:** University Secretary  
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## 1.0 PURPOSE

- 1.1 Every Chief Executive of a government body is required to develop procedures for managing Disclosures under the *Public Interest Disclosure Act* (PIDA).
- 1.2 The following procedures are established to fulfill the President's responsibilities under section 9 of PIDA.

## 2.0 PROCEDURES

### 2.1 Designated Officer

The President designates the University Secretary as the Designated Officer.

### 2.2 Requests for Advice

2.2.1 An Employee who is considering making a Disclosure under PIDA may seek advice about doing so from:

- i. their union representative or employee association representative as applicable;
- ii. a lawyer (at their own expense);
- iii. their Supervisor;
- iv. a Designated Officer; or
- v. the [BC Ombudsperson](#).

2.2.2 The Supervisor or Designated Officer:

- i. may require the Employee to make the request for advice in writing;
- ii. must document all requests for advice received under PIDA, and maintain a written record of the advice provided (Supervisors must forward all these records to the Designated Officer); and
- iii. must clarify that a request for advice is being made under PIDA in cases where there is ambiguity.

### 2.3 Making a Disclosure

2.3.1 Employees can report allegations of Wrongdoing under PIDA by making a Disclosure to their Supervisor, Designated Officer, or the BC Ombudsperson.

- 2.3.2 If a Designated Officer is the subject of the allegations, the Disclosure is made or forwarded to the other Designated Officer. Where there is not another Designated Officer, the disclosure is made and forwarded to the President.
- 2.3.3 Disclosures must be submitted in writing by Employees through one of the following methods:
- i. completing the form issued and maintained by the Designated Officer, which can be found on the [University's Public Interest Disclosure website](#), and emailing the form directly to their Supervisor or the Designated Officer; or
  - iii. reporting to the Ombudsperson, via their Contact Us webpage.
- 2.3.4 Disclosures must include the following information, if known:
- i. a description of the Wrongdoing;
  - ii. the name(s) of the person alleged
    - a. to have committed the Wrongdoing, or
    - b. to be about to commit the Wrongdoing;
  - iii. the date(s) of the Wrongdoing;
  - iv. whether the information or conduct that is being disclosed relates to an obligation under another enactment and, if so, a reference to the enactment;
  - v. whether the Wrongdoing has already been disclosed under PIDA or another enactment; and
  - vi. the name of the person to whom the Disclosure was made and the response, if any, that has been received if subsection 2.3.3 (v) applies.
- 2.3.5 Anonymous Disclosures
- i. Requesting advice about making a Disclosure and making a Disclosure may be done anonymously.
  - ii. 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.
- 2.3.6 Multiple Disclosures
- i. If multiple Disclosers come forward at the same time regarding the same alleged Wrongdoing, the Designated Officer may assess and investigate the Disclosures together as a single matter.

- ii. The fact that multiple Disclosers have come forward about the same alleged Wrongdoing is not shared with the other Disclosers.

## 2.4 Public Disclosures Involving Imminent Danger

2.4.1 An Employee may make a public Disclosure of Wrongdoing under limited, exceptional circumstances as described below.

2.4.2 Before making a public Disclosure, the Employee must:

- i. reasonably believe the alleged Wrongdoing poses an imminent risk of danger to the life, health, or safety of persons, or to the environment;
- ii. consult with the relevant protection officials as follows:
  - a. in respect of a health-related matter, the Provincial Health Officer;
  - b. in respect of an environmental matter, the provincial administrator defined in section 1(1) of the [Emergency and Disaster Management Act](#); or
  - c. in any other case, the appropriate police force.
- iii. receive direction from the protection official about whether to make the Disclosure, and if so, on what conditions;
- iv. make the Disclosure in accordance with any conditions the protection official imposes if the protection official approves the Disclosure. If the direction from the protection official is that the Employee should not make the Disclosure, the Employee must not make the Disclosure to the public.

2.4.3 When making a public Disclosure, Employees must not share information that is subject to a restriction under an enactment of BC or Canada. This means Employees must not share information that they are prohibited from sharing under a statutory oath or any statute or other regulation.

2.4.4 In addition, PIDA does not authorize the release of information in a public Disclosure that is:

- i. Protected by solicitor-client privilege
- ii. Protected by any common law rule of privilege, or
- iii. Subject to public interest immunity, including cabinet privilege.

2.4.5 Immediately after making a public Disclosure, the Employee must:

- i. advise their Supervisor or the Designated Officer about the public Disclosure; and
- ii. make a Disclosure per Section 2.3 of these Procedures, to their Supervisor, Designated Officer, or the BC Ombudsperson.

2.4.6 If the Designated Officer investigates a Disclosure following a public disclosure involving imminent danger, they must contact the protection official to gather information regarding the steps taken in response to the subject matter of the Disclosure, and use this information to assess whether further investigation is warranted.

## 2.5 Referring, Receiving and Reviewing Disclosures

2.5.1 If an Employee makes a Disclosure to their Supervisor, the Supervisor must forward it to the Designated Officer by email as soon as possible.

2.5.2 The Designated Officer confirms receipt of a Disclosure to the Discloser within five business days and must ensure that the Disclosure is reviewed in a timely manner in accordance with this Procedure.

2.5.3 The Designated Officer assesses the Disclosure to:

- i. confirm that the Discloser is or was an Employee and that the Discloser was an Employee at the time the alleged Wrongdoing occurred;
- ii. determine whether the allegations in the Disclosure would, if substantiated, meet the definition of Wrongdoing;
- iii. confirm whether the alleged Wrongdoing occurred in or relating to UNBC;
- iv. confirm that contents of the Disclosure meet the requirements of this Procedure;
- vi. evaluate the risk of Reprisal against the Disclosure; and
- vii. evaluate whether the Disclosure reveals information that gives rise to an imminent risk.

2.5.4 If the Designated Officer reasonably believes that a Disclosure reveals information that gives rise to an imminent risk, they may make a report to the appropriate protection official.

2.5.5 In performing this assessment, the Designated Officer may seek further information from the Discloser, as needed.

2.5.6 The Designated Officer must assess each Disclosure received for the risk of Reprisal against the Discloser (regardless of whether the Disclosure is investigated).

## 2.6 Determination of Whether an Investigation is Warranted

- 2.6.1 The Designated Officer decides within 20 business days of receiving the Disclosure whether an Investigation is required and the form of the Investigation.
- 2.6.2 The Designated Officer must not investigate a Disclosure, or must suspend an in-progress investigation of a Disclosure, if the Designated Officer reasonably determines that the Disclosure:
- i. was not made by an Employee;
  - ii. contains allegations that, if substantiated, would not meet the definition of Wrongdoing;
  - iii. alleges Wrongdoing that did not occur at or does not relate to UNBC;
  - iv. relates primarily to:
    - a. a dispute between an Employee and UNBC about their employment;
    - b. a matter relating to law enforcement;
    - c. a matter relating to the prosecution of an offence; or
    - d. an adjudicative function of a court, tribunal or other statutory decision maker, including decision, or the processes or deliberations that have led to or may lead to a decision, by the court, tribunal or other statutory decision maker.
- 2.6.3 The Designated Officer may refuse to investigate a Disclosure, or suspend an in-progress investigation of a Disclosure, if the Designated Officer reasonably determines that:
- i. the Disclosure does not provide sufficient details or particulars about the Wrongdoing;
  - ii. the Disclosure is frivolous or vexatious;
  - iii. the Disclosure was not made in good faith;
  - iv. an investigation of the Disclosure would serve no useful purpose or could not be reasonably conducted because of the length of time that has passed between the date of when the subject matter of the Disclosure arose and the date of the Disclosure;
  - v. the Disclosure relates solely to a public policy decision;
  - vi. the Disclosure has been referred to another appropriate authority for investigation;
  - viii. the Disclosure has already been or is being appropriately investigated by an appropriate authority (including by the University pursuant to another applicable University policy or process);

- ix. the Disclosure would more appropriately be addressed under another University policy or process, in which case, the Designated Officer either refers the Discloser to the applicable policy or process or notifies the Discloser and will forward the Disclosure to the appropriate University office(s) for that policy or process; or
  - x. PIDA requires or allows the Designated Officer to refuse to investigate or suspend an in-progress investigation.
- 2.6.4 Additionally, the Designated Officer may postpone or suspend an investigation if the Designated Officer:
- i. reports to a law enforcement agency an alleged offence they have reason to believe has been committed in relation to the Disclosure;
  - ii. considers that the Investigation may compromise another investigation being undertaken at the University or elsewhere; or
  - iii. the alleged Wrongdoing is also being investigated for the prosecution of an offence.
- 2.6.5 The Designated Officer, in consultation with the President, may refer a Disclosure to the BC Ombudsperson considering factors such as:
- i. whether the subject matter of the Disclosure would be more appropriately dealt with by another authority;
  - ii. the complexity of the subject matter of the Disclosure;
  - iii. whether a real or perceived conflict of interest exists;
  - iv. the resources and expertise required to conduct a fair and effective Investigation; and
  - v. if the subject matter relates to an individual with authority over the Designated Officer.
- 2.6.6 Where the President is the implicated party of an alleged offense, the Designated Officer, in consultation with the Board Chair, may refer the Disclosure to the BC Ombudsperson and/or law enforcement.
- 2.6.7 The Designated Officer must notify the Discloser in writing whether an investigation will proceed, and if so, who will undertake it. If the Designated Officer has declined to investigate or has stopped or suspended an investigation, they will provide notice with written reasons and confirm whether the Disclosure will be referred to another authority as described in these procedures, unless the Designated Officer reasonably believes that such notice would compromise another investigation.

- 2.6.8 The Designated Officer provides notice of any decision to investigate to the President, or the Board Chair if the President is alleged to be responsible for the alleged Wrongdoing, and the Respondent(s). Notice may be delayed until an appropriate time if the Designated Officer believes that notification may compromise the investigation or expose the Discloser to Reprisal, provided that Respondents in all cases receive notice of the allegations prior to being interviewed.
- 2.6.9 If an investigation is initiated, the Designated Officer implements measures to safeguard the anonymity of the Discloser throughout the process and ensure risks of Reprisal are managed to the extent reasonably possible.
- 2.6.10 The Discloser always has the right to directly make a Disclosure to the Office of the BC Ombudsperson at any time.

## 2.7 Investigations

- 2.7.1 Investigations carried out under these procedures must:
- i. be undertaken promptly and diligently, and be as thorough as necessary, given the circumstances;
  - ii. be objective, conducted in accordance with the principles of procedural fairness, and impartial to both the Discloser and the Respondent(s) when evaluating the alleged Wrongdoing;
  - iii. comply with all relevant provisions in any applicable collective agreement;
  - iv. be sensitive to the interests of all parties involved and maintain confidentiality to the extent possible under the circumstances.
- 2.7.2 Subject to Section 2.6.1 of these procedures, where multiple Disclosures contain significant factual overlap, the Designated Officer may decide to investigate the Disclosures together as stated in section 2.3.6
- 2.7.3 Investigations are normally completed, and a draft report prepared within four months from the decision to investigate. The Designated Officer may amend this timeline (by extension or shortening) depending upon the nature and complexity of the allegations in the Disclosure.
- 2.7.4 Everyone involved in an investigation must treat all related information as confidential and protect any personal information



collected, used or shared as part of a request for advice, Disclosure, complaint about Reprisal, or Investigation to the extent possible under applicable legislation, policy, and collective agreements.

## 2.8 Investigation Reports

2.8.1 Upon conclusion of an investigation, the Designated Officer prepares an investigation report, which includes findings of Wrongdoing, reasons to support the findings, and any recommendations to address the findings, as applicable.

2.8.2 The investigation report is provided to the President, unless they are implicated in founded Wrongdoing. If the President is implicated in founded Wrongdoing, the report will be provided to the Chair of the Board of Governors.

2.8.3 Subject to the University's obligations under FIPPA, the Designated Officer provides a summary of the investigation report to the Discloser. Where practicable, the Designated Officer also provides a summary of the investigation report to any person alleged or found to be responsible for Wrongdoing.

## 2.9 Reprisal

2.9.1 Reprisal is unacceptable and prohibited conduct that, if found to have occurred, may result in a range of corrective measures and disciplinary sanctions indicated in the Public Interest Disclosure Policy.

2.9.2 If an Employee believes that a Reprisal has been taken against them, they may contact the [BC Ombudsperson's Office](#) to make a complaint.

2.9.3 Reprisal complaints made to a Supervisor or the Designated Officer are forwarded to and investigated by the BC Ombudsperson's Office.

## 2.10 Access to Information, Confidentiality and Protection of Privacy

2.10.1 The information and records made and received to administer the Policy and these Procedures are subject to the protection of privacy provisions of FIPPA and the University's *Protection of Privacy Policy* and *Records Management Policy*. To the extent possible, the

information and records are treated in a confidential manner, in compliance with FIPPA and with applicable University policies.

- 2.10.2 Everyone involved in a request for advice, Disclosure, complaint about Reprisal, or Investigation must protect confidentiality and privacy.
- 2.10.3 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.
- 2.10.4 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.
- 2.10.5 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.
- 2.10.6 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 agreements and ensure a fair and appropriate Investigation.