

ADMINISTRATIVE PROCEDURE NO. 458

PUBLIC INTEREST DISCLOSURE/DUTY TO REPORT

Background

Red Deer Catholic Regional Division #39 is committed to providing quality education in a Catholic environment. The Division has a duty to conduct its operations in a transparent manner and to ensure all practices are consistent with legal statutes and requirements as established by Alberta Education and as guided by the Alberta Catholic Bishops. The Superintendent and senior leadership team are responsible for maintaining a system of management controls which detect and deter misconduct.

The province of Alberta has enacted the Public Interest Disclosure (Whistleblower Protection) Act for the purpose of:

- facilitating the disclosure and investigation of significant and serious matters in or relating to public entities, including school boards, that an employee believes may be unlawful, dangerous to the public or injurious to the public interest,
- protecting employees who make those disclosures,
- managing, investigating, and making recommendations respecting disclosures of wrongdoings and reprisals,
- promoting public confidence in the administration of public entities.

Every staff member has the responsibility to use available resources to focus on our mission through clarity of purpose and to work in the best interest of the Division. To this end, all staff members shall conduct themselves personally and professionally in a Catholic moral and highly ethical manner so as to not bring the Division or other staff members into public disrepute or ridicule. This Administrative Procedure is intended to assist individuals who believe they have discovered serious wrongdoings provided they make disclosure in accordance with the administrative procedure and applicable codes of ethics. Employees must be able to confidentially express their reasonable concerns about unlawful or dishonest acts or misuse of Division property. Every employee must have the means to report such conduct to the appropriate person

Definitions

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

Designated Officer – The Secretary-Treasurer is designated as the “Designated Officer” to manage and investigate disclosures under PIDA.

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.

Wrongdoing – A wrongdoing is defined as one of the following, within or relating to the Board or its employees;

- a) A contravention of an Act of Alberta or Canada or the regulations thereof;
- b) An act or omission that creates
 - (i) a substantial and specific danger to the life, health or safety of individuals other than a danger that is inherent the performance of an employee, or
 - (ii) a substantial and specific danger to the environment;
- c) gross mismanagement of public funds or a public asset;
- d) knowingly directing or counselling an individual to commit a wrongdoing mentioned in clause (a) to (c).

An employee who in good faith makes a disclosure under this administrative procedure will not be subject to any threats of dismissal, layoff, suspension, demotion, transfer, discontinuation or elimination of a job, change of job location, reduction in wages, change in hours of work or reprimand or any other measures that adversely affects the employee's employment or working conditions.

Procedures

Any staff member who believes another member of the Division has committed a wrongdoing as provided in the Act, has a duty to report that wrongdoing. The wrongdoing should initially be reported to their direct supervisor unless the direct supervisor has involvement in the wrongdoing in which case the staff member should report directly to the Secretary-Treasurer. If the direct supervisor has not dealt with the issue to the satisfaction of the staff member he/she may report the wrongdoing to the Secretary-Treasurer. The staff member must file a copy of Appendix A to the Secretary-Treasurer to begin the process.

Disclosures of Wrongdoings

1. Employees seeking advice on potential disclosure under PIDA and this AP shall be referred to the Designated Officer, who shall provide the employee with information on PIDA, this AP, the requirements of PIDA and this AP, and other alternative processes for resolution of the employee's concern.
2. An employee who reasonably believes that he or she has information that could show that a wrongdoing has been 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 employees' Designated Officer. Further information can be obtained by visiting the Commissioners website at www.yourvoiceprotected.ca.
4. An employee may only disclose directly to the Commissioner and circumvent the Chief Officer and Designated Officer if:
 - The employee has made a disclosure in accordance with the expectations of this AP and an investigation has not been completed in accordance with this procedures;
 - The employee has made a disclosure in accordance with the expectations of the disclosure requirements of this AP and the matter has not been resolved within the timelines established within these procedures;
 - 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 this AP;
 - 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 disclosure to the Designated Officer. The employee must also disclose the wrongdoing to the Designated Officer as soon as practicable thereafter.
 - The employee has made a disclosure in accordance with this Procedure, the investigation has been completed, a final decision has been issued in respect of the disclosure and the employee is dissatisfied with the decision.
 - 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 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;
 - Advise the Board Chair of the nature of the disclosure, whereupon the Board may authorize an investigation into the disclosure
 - 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 Chief Officer and the Commissioner.
8. Notwithstanding whether a disclosure is referred to the Commissioner, where the Designated Officer is aware of:
 - 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
 - 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, Firstly, advise the Chief Officer and then 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 on 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 advise 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, the Designated Officer shall report the subject matter of the disclosure to the Designated Officer of that entity.
4. Should the subject matter of the disclosure be more appropriately dealt with according to another 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 procedure.
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:
 - as necessary for this procedure and to conduct the investigation in accordance with the principles and procedural fairness and natural justice;
 - in accordance with PIDA or any other statute;
 - 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:
 - 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;

- relates to a decision, action or matter that results from a balanced and informed decision-making process on a public procedure or operational issue; or
- 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 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.

Reporting

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. 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.
3. 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.

4. 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 obligation, or an honest intention to abstain from taking any advantage of another.
2. An employee who knowingly makes deliberately false and/or malicious 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 website by January 30th of each year. The annual report will include the following information:
 - the number of disclosures received by the Designated Officer;
 - the number of disclosures acted on; and
 - the number of disclosures not acted on by the Designated Officer;
 - the number of disclosures commenced by the Designated Officer as a result of disclosures;
 - 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.

Procedure Communication

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

Reference: School Act: Section 18, 20, 60, 96, 113, 116, 117
Public Interest Disclosure (Whistleblower Protection) Act
Teaching Professions Act
ATA Code of Professional Conduct