

PUBLIC INTEREST DISCLOSURES

Background

The Board of Education of School District No. 43 (Coquitlam) is strongly committed to upholding ethical standards throughout the School District and will foster and maintain an environment where employees can work safely and appropriately and disclose allegations of wrongdoing without fear of reprisal. The definition of employee(s) for the purpose of this procedure is as defined in the *Public Interest Disclosure Act BC* (“*PIDA*”).

The purposes of this Administrative Procedure are to (1) provide information about *PIDA*, (2) explain the process through which an employee, who is acting in good faith, may request advice, disclose allegations of wrongdoing, as that term is defined in *PIDA*, or make a complaint of reprisal by the District or its employees, in accordance with *PIDA*, and (3) explain how such requests for advice, disclosures, or complaints of reprisal will be managed by the District.

This procedure does not displace other mechanisms set out in School District Policy/Procedures for addressing and enforcing standards of conduct, disputes, complaints, or grievances, including issues of discrimination, bullying and harassment, occupational health and safety, or disputes over employment matters or under collective agreements.

What constitutes “wrongdoing” for the purpose of *Public Interest Disclosure Act*?

PIDA is intended to apply to serious or systemic wrongdoing by an employee that is potentially unlawful, dangerous to the public, or injurious to the public interest. Wrongdoing is defined in section 7 of *PIDA* as follows:

- (a) a serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada;
- (b) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of an employee's duties or functions;
- (c) a serious misuse of public funds or public assets;
- (d) gross or systemic mismanagement;
- (e) knowingly directing or counselling a person to commit a wrongdoing described in (a) to (d).

Wrongdoing does not include disputes between an employee and employer primarily related to the employee’s employment, nor concerns or complaints about a legitimate exercise of managerial authority or other personnel actions which are subject to the grievance procedure or other processes under applicable collective agreements or administrative procedures.

Duty to Disclose and Act in Good Faith

An employee who has a reasonable good faith belief that wrongdoing, as defined in *PIDA*, has or is about to be committed, is required by the District to disclose such wrongdoing in accordance with the

processes set out in this Administrative Procedure.

An employee who is considering making a disclosure may request advice from any of their union representative or employee association representative, a lawyer, their supervisor, a designated officer, or the Ombudsperson.

An employee requesting advice, making a disclosure, or making a complaint of reprisal must be acting in good faith, without malice, and without an ulterior motive. If a request for advice, a disclosure, or a complaint of reprisal is made frivolously, vexatiously, in bad faith, or without a reasonable belief in the truth of the request, disclosure, or reprisal complaint, or the evidence provided in support of the same, the protections ordinarily afforded to an employee requesting advice, making a disclosure, or making a complaint of reprisal under *PIDA* will not apply.

Confidentiality

The District will endeavor to handle requests for advice, providing advice, disclosures, and complaints of reprisal made in accordance with this Administrative Procedure confidentially, including with respect to protecting the identity of the employee, to the extent consistent with conducting a complete and fair investigation or otherwise as required by law. In particular, personal information collected and used by the District in the course of dealing with requests for advice, providing advice, disclosures, and complaints of reprisal will be:

- (i) limited to the personal information required for the advice, disclosure, and/or complaint process and investigations, and
- (ii) protected in accordance with applicable rules or principles for the protection of personal information under the *Freedom of Information and Protection of Privacy Act*.

Reporting a Disclosure

In general, for the protections under *PIDA* to apply to a disclosure about alleged wrongdoing, an employee must make the disclosure to the Superintendent, the Secretary Treasurer, or the Executive Director of Human Resources, each of whom have been appointed “designated officers” for the purpose of receiving and investigating a disclosure under Section 10 (1) of *PIDA*. An employee may also make a disclosure to the Ombudsperson or the employee’s supervisor, who is then required to report it to a designated officer.

In very limited circumstances, set out in section 16 of *PIDA*, an employee may make a disclosure to the public and immediately afterwards advise the employee’s supervisor or a designated officer about the disclosure. This is only permissible if the employee reasonably believes that a matter constitutes an imminent risk of a substantial and specific danger to the life, health or safety of persons, or to the environment, and, prior to making the disclosure, the employee has consulted a relevant “protection official” (as that term is defined in *PIDA*) and the disclosure is made in accordance with the direction of that protection official.

In addition, for the protections under *PIDA* to apply, the disclosure must be in writing and must include the following information if known:

- (a) a description of the wrongdoing;
- (b) the name of the person alleged
 - (i) to have committed the wrongdoing, or

- (ii) to be about to commit the wrongdoing;
- (c) the date of the wrongdoing;
- (d) whether information or conduct that is being disclosed relates to an obligation under another enactment and, if so, a reference to the enactment;
- (e) whether the wrongdoing has already been disclosed under PIDA or another enactment;
- (f) if paragraph (e) applies, the name of the person to whom the disclosure was made and the response, if any, that has been received.

A disclosure can be made anonymously but in doing so a discloser needs to be aware that anonymous disclosures may be challenging to fully investigate and some of the notification processes pursuant to this Administrative Procedure or *PIDA* will not be able to be actioned.

The District has established two methods to facilitate disclosures being made:

- A) via confidential email; or
- B) via a Public Interest Disclosure Report Form that can be sent by mail

The confidential email address and Public Interest Disclosure Report Form is available to employees on the District's website.

Review of Disclosures

Every person involved in receiving, reviewing, and investigating disclosures must carry out those functions in a confidential, expeditious, and fair manner.

A designated officer who receives a disclosure will record receipt of the disclosure. That designated officer may proceed to deal with the disclosure themselves or refer the disclosure to another designated officer if it is considered appropriate to do so. The appropriate designated officer, who may be different than the designated officer who received the disclosure, will then determine whether to begin or refuse to conduct an investigation of the disclosure. Section 22 of *PIDA* sets out the reasons the designated officer may or must refuse to investigate or stop investigating. These include that:

- a) the disclosure relates primarily to a dispute between an employee and his or her employer respecting the employee's employment;
- b) the disclosure does not provide adequate particulars about the wrongdoing;
- c) the disclosure:
 - i. is frivolous or vexatious;
 - ii. has not been made in good faith;
 - iii. has not been made by a person entitled to disclose under this Act; or
 - iv. does not deal with a wrongdoing;
- d) the investigation of the disclosure would serve no useful purpose or could not reasonably be conducted because of the length of time that has elapsed between the date when the subject matter of the disclosure arose and the date when the disclosure was made;

- e) the disclosure relates solely to a public policy decision;
- f) the disclosure relates primarily to a matter that is wholly referred to another party for investigation under section 24 of *PIDA*;
- g) the disclosure is being, or has already been, appropriately investigated, including by a designated officer.

The designated officer may also postpone or suspend an investigation in accordance with the grounds set out in section 23 of *PIDA*. The designated officer will advise the discloser of any decision to begin, stop, postpone, suspend, or refuse to investigate a disclosure.

Investigation of Disclosures

If the above-noted designated officer determines that the disclosure is to be investigated in accordance with this procedure and *PIDA*, they will initiate and will be responsible for the investigation. The designated officer responsible for the investigation may be assisted by other individuals, as appropriate, in conducting the investigation of the disclosure. If relevant and consistent with the requirements of *PIDA*, collective agreement processes regarding notification of an investigation will be followed. As per section 45 of *PIDA*, any collective agreement provisions contrary to the requirements of *PIDA* are deemed not enforceable.

In the event that potential wrongdoing other than that identified in the disclosure is identified in the course of investigating the disclosure, the designated officer will determine the appropriate method by which such potential wrongdoing is to be investigated.

Following the completion of an investigation, a report regarding the outcome of the investigation will be created, including any finding of wrongdoing; the reasons to support any finding of wrongdoing; and any recommendations to address these findings. An appropriate summary of the report will be provided to the discloser if the discloser's identity is known. If an investigation establishes that an employee has engaged in improper activity or wrongdoing the District will take appropriate action. In appropriate circumstances, this may include discipline up to and including termination of employment.

All disclosures under *PIDA* must be managed in a fair and expeditious manner and without unreasonable delay. Where practicable, disclosures will be reviewed within 20 business days and investigated within 120 business days. A summary of the investigation report, as appropriate, will be provided to the discloser within 20 business days of the investigation report being completed.

No Reprisals

No employee shall be subject to reprisal or any repercussion for requesting advice about making a disclosure, making a disclosure, or participating in an investigation, provided that the employee is acting in accordance with the requirements of *PIDA* and in good faith and on a reasonably held belief in the truth of the allegations in the disclosure or the evidence presented in support of the allegations. Reprisals constitute an offence under *PIDA*.

When a disclosure is received, a designated officer will undertake a risk assessment to assess the level of risk of reprisals having regard to relevant factors. To inform this assessment, disclosers are encouraged to identify any reasons they consider may heighten the risk of reprisal in their particular circumstances when making a disclosure. Having conducted the risk assessment, the designated officer will determine whether it is appropriate to take any steps to mitigate the risk of reprisals.

Threats or acts of reprisal will not be tolerated and must be immediately reported in writing to a designated officer or, if not appropriate, the Ombudsperson.

Annual Report

In accordance with Section 38 of *PIDA*, an annual summary of actions taken under this Administrative Procedure, including information regarding disclosures received and acted upon during the school year, July 1st to June 30th, will be made available on the District website.

Breach of the *Public Interest Disclosure Act* or this Administrative Procedure

Any breach of *PIDA* or this Administrative Procedure may result in disciplinary action up to and including termination. As per Section 8 of *PIDA*, this Administrative Procedure does not limit employment consequences that apply to an employee who commits a wrongdoing or to a disclosure that relates to the discloser's own conduct in respect of a wrongdoing.

Management Rights

Nothing in this administrative procedure shall be deemed to diminish or impair the rights of the District to manage its employees under common law or any policy, procedure, or collective agreement, or to prohibit management from taking any disciplinary or other personnel actions.

Created: October 2023