

POLICY 20

PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER PROTECTION)

POLICY

The Board of Trustees of Livingstone Range School Division is committed to the highest ethical and accountable conduct, and recognizes the importance of working to deter and detect wrongdoing within the operation of the school division, and to promote public confidence in the administration of the Board.

To ensure this, the Board of Trustees is committed to maintaining a positive and supportive environment whereby employees can disclose potential wrongdoing, or seek advice about disclosing a potential wrongdoing without retribution, and are provided with clear guidance for how those disclosures may take place.

All employees have a duty to report all wrongdoings or suspected wrongdoings to the Chief Officer or Designate.

GUIDELINES

The Province of Alberta has enacted the Public Interest Disclosure Act (“PIDA”) in order to:

- 1) Facilitate the disclosure and investigation of significant and serious matters in or relating to public bodies, including school boards, that an employee believes may be unlawful, dangerous to the public, or injurious to the public interest;
- 2) Protect employees who make those disclosures;
- 3) Manage, investigate and make recommendations respecting disclosures of wrongdoings and reprisals
- 4) Promote public confidence in the administration of public bodies.

The Board of Trustees is required under Section 5(1) of PIDA to establish and maintain written practices for managing and investigating disclosures by employees of the Board. Those practices are as constituted in this Board Policy.

PRACTICES

Designation of Chief Officer

The Superintendent of Schools is designated the Chief Officer for the purpose of the overall administration and reporting required under PIDA.

Designation of Designated Officer

The Associate Superintendent of Business Services is designated the Designated Officer for the purpose of administering and investigating disclosures and PIDA.

APPLICATION

This policy applies to wrongdoings in relating to Livingstone Range School Division, its schools, departments and employees that involve:

- 1) A contravention of an Act of Alberta or Canada or the Regulations related to those acts, or
- 2) 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 of functions of an employee, or
 - b) A substantial and specific danger to the environment, or
 - c) Gross mismanagement of public funds or a public asset, or
 - d) Knowingly directing or counseling an individual to commit one of the wrongdoings listed above.

NO REPRISALS

- 1) Any employee who, in good faith:
 - a) Seeks advice about making a disclosure,
 - b) Makes or who has made a disclosure,
 - c) Co-operated in an investigation, or
 - d) Declined to participate in a wrongdoing,

WILL NOT be subject to actions or 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 measure that adversely affects the employee's employment or working conditions.

- 2) An employee may make a written complaint to the Public Interest Commissioner (hereafter referred to as "the Commissioner") if the employee alleges that a reprisal has been taken or been directed against the employee.
 - a) Written complaints must, according to PIDA, be made on the official "Complaint of Reprisal Form". (<http://www.pic.alberta.ca/reprisal-form.aspx>)
- 3) Reasonable human resource management decisions made in good faith do not constitute a "reprisal".

DISCLOSURE

- 1) Disclosures of wrongdoing must be made to the Associate Superintendent of Business Services (the Designated Officer) in writing. The Public Interest Disclosure Form outlines the information required in a disclosure of wrongdoing or reprisal (Appendix; General Information and Disclosure Form).
- 2) In the event that disclosure to the Associate Superintendent of Business Services is not appropriate due to conflict of interest, with respect to the nature of the disclosure or the person involved, the Designated Officer shall request the Chief Officer to designate an alternative Designated Officer for the disclosure. The alternative Designated Officer shall have all the powers of the Designated Officer for the purpose of this disclosure.
- 3) 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:

- a) advise the Board Chair of the nature of the disclosure, whereupon the Board of Trustees may authorize an investigation into the disclosure; and
 - b) advise the Commissioner of the disclosure and its referral to the Board of Trustees, and seek advice from the Commissioner concerning whether the disclosure should be referred to the Commissioner.
- 4) **Disclosures of matters dealing with “imminent risk”** (matters that require immediate attention as they pose significant risk to public health or safety, or a danger to the environment) **must be made directly to the Public Interest Commissioner**, who will then communicate with the appropriate authorities. The employee must also disclose the wrongdoing to the Designated Officer, as soon as practicable thereafter.
 - 5) Anonymous disclosures may be dealt with, but an investigation may be hampered by the request for anonymity.

INVESTIGATION

- 1) Upon receiving a disclosure, the person receiving the disclosure shall determine whether or not an investigation is warranted.
- 2) An investigation may involve both internal and external sources to assist in determining whether a wrongdoing has occurred and what corrective action may be appropriate
- 3) Confidentiality of the discloser of a wrongdoing shall be maintained to the extent possible consistent with the need to conduct an adequate investigation.
- 4) Investigations shall be conducted in accordance with the principles of fairness and natural justice.

TIMELINES

- 1) A disclosure of wrongdoing or complaint of reprisal shall be acknowledged not more than ten (10) business days from the date on which the disclosure of wrongdoing or complaint or reprisal is received.
- 2) The employee who submitted a disclosure of wrongdoing or complaint of reprisal shall be advised no more than twenty (20) business days from the date on which the disclosure of wrongdoing or complaint of reprisal is received of whether an investigation will be made.
- 3) An investigation must be concluded not more than 110 business days from the date on which the disclosure of wrongdoing or complaint or reprisal is received.
- 4) These timelines may be extended by up to 30 days by the Superintendent, or for a longer period of time is approved by the Public Interest Commissioner

REPORTING

- 1) The Designated Officer shall provide a written investigation report to the Chief Officer

detailing whether the disclosure was substantiated, and providing recommendations on corrective action.

- 2) Where the Designated Officer is considering a recommendation to the Superintendent that the Superintendent exercise authority delegated to them by the Board of Trustees to suspend or terminate a teacher or administrative designation under the Education Act, the Designated Officer shall consult with other board staff typically responsible for such recommendations concerning the necessary process. In such an event, the written investigation report shall be provided to the Superintendent in the course of any process under the Education 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 either taken as a result or recommended to the Board of Trustees. 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.
- 5) The Chief Officer is required to submit an annual report to the designated officer in Alberta Education, outlining;
 - a) the number of disclosures received by the designated officer, the number of disclosures acted on and the number not acted on;
 - b) the number of investigations commenced as a result of disclosures;
 - c) in the case of an investigation that results in a finding of wrongdoing, a description of the wrongdoing and recommendations made or corrective measures taken (or reasons why no corrective measures were taken).

This report must be included in the annual report that is made available to the public.

APPEALS

Where an employee may desire, a Notice of Disclosure may be made directly to the Provincial Commissioner at any time.

GOOD FAITH

- 1) An employee who submits a disclosure of wrongdoing or complaint of reprisal must act in good faith.
- 2) Deliberately false or malicious allegations by an employee will form the ground for disciplinary acting up to and including termination of employment.

September 9, 2014 (New Policy)

References:

Approved & Adopted:

September 2014 Reviewed:

January 2020, April 2023

APPENDIX: General Information & Disclosure Form

Consider the following to determine if there is reasonable cause to file a notice with your Public Interest Commission Designated Officer:

- 1) The Public Interest Disclosure Act applies to employees of government departments, offices of the Legislature and public entities as prescribed in the Public Interest Disclosure Act Regulations, who in good faith disclose a wrongdoing in accordance with the Act.
- 2) The wrongdoing must have occurred after June 1, 2013 and within 2 years of today's date.
- 3) The type of wrongdoing **must** fall within one (or more) of the following categories:
 - a) Contravention of an Act or a Regulation (Contravention of a Law)
 - b) An act or omission that creates a substantial and specific danger to the life, health or safety of individuals.
 - c) An act or omission that creates a substantial and specific danger to the environment.
 - d) Gross mismanagement of public funds or a public asset.
 - e) Counseling an individual to commit a wrongdoing mentioned above
 - i) *If none of the above, the Public Interest Disclosure Act does not apply. You should consider internal department / organization resolution mechanisms.*

Under the following circumstances you should make the Disclosure to the Public Interest Commissioner in Edmonton:

- 1) No procedures have been established within my department/public entity, to make a disclosure.
- 2) The subject matter involves the Chief Officer or Designated Officer of my department/public entity.
- 3) There is an imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the environment, and there is insufficient time to make a disclosure to my Designated Officer.
- 4) An individual reasonably believes that a reprisal is likely to be taken or directed against him/her if the disclosure is made to the Designated Officer.
 - a) To proceed with making a Disclosure of Wrongdoing to the Public Interest Commissioner, please complete the form online at <http://www.pic.alberta.ca/wrongdoing-form.aspx>

For more information, clarification and/or advice – you may contact the Provincial Public Interest Commissioner in Edmonton.

Office of the Public Interest Commissioner

10303 Jasper Avenue NW, Suite 2800 Edmonton, Alberta T5J 5C3

Fax: 780-427-2759

Email: info@pic.alberta.ca

To make a formal disclosure of wrongdoing to your Designated Officer (Associate Superintendent of Business Services) please complete the guide on the next page and submit it to:

Livingstone Range School Division

Associate Superintendent of Business Services

P.O. Box 69, 5202 5th Street East

Claresholm, Alberta T0L 0T0

- 2) Provide as much information as possible about the person(s) or organization(s) alleged to have committed the wrongdoing, or is about to commit the wrongdoing, or where the wrongdoing occurred or is about to occur.

Name: _____ Title: _____
Email: _____
Address: _____ Work Phone: _____

Organization: _____
Org. Address: _____

Name: _____ Title: _____
Email: _____
Address: _____ Work Phone: _____
Organization: _____
Org. Address: _____

Name: _____ Title: _____
Email: _____
Address: _____ Work Phone: _____
Organization: _____
Org. Address: _____

Name: _____ Title: _____
Email: _____
Address: _____ Work Phone: _____
Organization: _____
Org. Address: _____

Declaration

"I believe that all the information provided is true to the best of my knowledge."

Signature

Date

Anonymous complaints will be accepted, but it significantly hinders a timely resolution - also, there is no way to make a report on the decision / findings.

"Knowingly making a false or misleading statement is an offence pursuant to the Act."