

Background

Pembina Hills School Division is committed to ensuring the highest standard of ethical and accountable conduct and recognizes the importance of working to discourage and identify wrongdoing within the Division and promote public confidence in the administration of the Division. The *Public Interest Disclosure (Whistleblower Protection) Act* (PIDA) and the Public Interest Disclosure (Whistleblower Protection) Regulation requires public entities, such as school boards, to create procedures for managing and investigating disclosures of serious wrongdoing, and protecting those employees who make such disclosure.

Procedures

1. The Superintendent is designated the Chief Officer for the purpose of the overall administration, compliance and reporting required under PIDA and must appoint a Designated Officer.
2. The Assistant Superintendent of Human Resources has been named as the Designated Officer for the purpose of administering and investigating disclosures under PIDA, unless the Assistant Superintendent of Human Resources would be in conflict of interest in which case the Chief Officer will designate an alternative. The designated alternative shall have all powers of the Designated Officer for the purpose of disclosure.
3. No person may make reprisals against an employee, acting in good faith, for making a disclosure, seeking advice about making a disclosure, or taking any steps under PIDA.
4. All Board Policies, Administrative Procedures, and disclosures of wrongdoing or complaints of reprisals shall be consistent with the *Public Interest Disclosure Act*.
5. An employee who submits a disclosure of wrongdoing or complaint of reprisal must act in good faith.
6. Deliberately false or malicious allegations by an employee will form the grounds for disciplinary action up to and including termination of employment.

A. Wrongdoings That Must Be Reported

1. This administrative procedure applies to wrongdoings in or relating to the Division, its schools, departments, and employees that involve:
 - a. A contravention of an Act of Alberta or Canada or the Regulations related to those Acts;
 - i. An act or omission that creates 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);
 - ii. An act or omission that causes a substantial and specific danger to the environment;
 - iii. Gross mismanagement, including an act or omission that is deliberate and that shows a reckless or willful disregard for the proper management of
 - Public funds or a public asset,
 - The delivery of a public service, including the management or performance of

- A contract or arrangement identified or described in the regulations, including the duties resulting from the contract or arrangement or any funds administered or provided under the contract or arrangement, and
 - The duties and powers resulting from an enactment identified or described in the regulations or any funds administered or provided as a result of the enactment,
 - Employees, by a pattern of behaviour or conduct of a systemic nature that indicates a problem in the culture of the organization relating to bullying, harassment or intimidation
- iv. Knowingly directing or counseling an individual to commit a wrongdoing.
2. Any employee who is considering making a disclosure may request information or advice from the Designated Officer, Chief Officer, their Supervisor or the Public Interest Commissioner. Such requests for information may be required to be in writing.

B. No Reprisals

1. Any employee who, in good faith:
- Seeks advice about making a decision,
 - Makes, or who has made a disclosure,
 - Cooperated in the investigation, or
 - Declined to participate in a wrongdoing,
 - Done anything in accordance with this Act,
- 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 if the employee alleges that a reprisal has been taken or been directed against the employee. The written complaint must be made on the official PIDA "[Complaint of Reprisal Form](#)".
3. Where the Public Interest Commissioner finds a reprisal has occurred, the Commissioner is obligated to refer the decision to the Labour Relations Board for determination as the appropriate remedy.
4. Reasonable human resource management decisions made in good faith do not constitute a "reprisal".

C. Making a Disclosure

1. Disclosures of wrongdoing may be made in writing to the Designated Officer, or directly to the Public Interest Commissioner. The Public Interest Disclosure Form ([Form 4-02](#)) should be used.
2. Emails or other written disclosures submitted not using Form 4-02 must include the contents of Form 4-02. Emails should be sent from a private email service, not the Division's system.
3. A disclosure of alleged wrongdoing, or of alleged reprisal, must be made by the employee as soon as is reasonably possible following the alleged wrongdoing or the alleged reprisal.
4. 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 may authorize an investigation into the disclosure; and

- b. Advise the Public Interest Commissioner of the disclosure and its referral to the Board, and seek advice from the Public Interest Commissioner concerning whether the disclosure should be referred to the Public Interest Commissioner.
5. If a disclosure is received by a member of the Board of Trustees (other than as referred to in 4 above) or any employee other than the Chief Officer or Designated Officer, such Board member or employee must immediately forward the disclosure to the Designated Officer.
6. If an anonymous disclosure is made, the Designated Officer will attempt to investigate in the same manner as if the disclosure had not been made anonymously. The Designated Officer will have the same obligations of confidentiality regarding the investigation, however the investigation may be hampered by the request for anonymity.
7. 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) are to be reported to the Designated Officer who will, in turn, report matters to:
 - An appropriate law enforcement agency;
 - In the case of a health-related matter, to the Chief Medical Officer of Health;
 - To the department, public entity or office responsible for managing, controlling or containing the risk, if any; and
 - To a person identified in the procedures created by the Chief Officer.
8. Disclosures of matters dealing with “criminal offences” are to be reported to the Chief Officer or the Designated Officer who will report matters to a law enforcement agency and to the Minister of Justice and Solicitor General. Investigations into the matter will be suspended until it has been disposed of by a law enforcement agency or the Minister of Justice and Solicitor General.
9. The Designated Officer will provide a written response to the discloser within ten (10) business days following the receipt of the disclosure advising the disclosure has been received, except in the case of a disclosure being made anonymously.
10. The Designated Officer will review the disclosure to ensure it meets the requirements of the *Public Interest Disclosure (Whistleblower Protection) Act*.
 - a. If the content requirement is not met, the Designated Officer will request additional information if required.
 - b. If the disclosure is not the type intended by Part 1 Wrongdoings of the *Public Interest Disclosure (Whistleblower Protection) Act*, the Designated Officer will determine whether the disclosure should be dealt with in accordance with other Division policies or procedures, referred to some other agency or not pursued.
 - c. If the Designated Officer is unsure if the disclosure meets the requirements of the *Public Interest Disclosure (Whistleblower Protection) Act*, he/she may request advice from the Public Interest Commissioner.
11. The Designated Officer or the Chief Officer may decide a disclosure should be referred to the Public Interest Commissioner or some other agency. The referral will be made within ten (10) business days following receipt of the disclosure.

D. Investigation of Alleged Wrongdoing

1. The Designated Officer will assess and monitor reprisal risk throughout the process.
2. If more than one disclosure is made with respect to the same issue, the Designated Officer may deal with all disclosures in one investigation.
3. 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.

4. Section 15 of the *Public Interest Disclosure (Whistleblower Protection) Act* provides the Chief Officer and the Designated Officer with the power to collect, directly or indirectly, use and disclose personal information, individually identifying health information, and any other information that is considered necessary to manage and investigate disclosures of alleged wrongdoing under this Act.
5. Confidentiality of the disclosure of a wrongdoing shall be maintained to the extent possible consistent with the need to conduct an adequate investigation.
6. Investigations shall be conducted in accordance with the principles of fairness and natural justice.
7. Despite the duty of procedural fairness and natural justice, the Designated Officer will determine at which point, if any, a person about whom a disclosure has been made will be advised of the facts and details of the disclosure. This decision will be made in light of all relevant considerations, including the nature and seriousness of the matters disclosed, and the potential impact on persons and property.
8. In the event that the Designated Officer, in the course of the investigation, discovers another wrongdoing has occurred or might occur, the Designated Officer will determine the appropriate course of action, including initiating another investigation, referral to the Public Interest Commissioner, or referral to another agency.

E. Timelines

1. 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.
2. An investigation must be concluded and a report prepared and submitted to the Chief Officer within 110 business days from the date on which the disclosure or complaint of reprisal is received.
3. Upon request by the Designated Officer, the Chief Officer may grant an extension of up to thirty (30) business days, or for a longer period of time if approved by the Public Interest Commissioner.
4. Where an extension of time is granted for the completion of an investigation and report, the disclosing employee must be advised when the next procedural step will occur or be completed.

F. Reporting

1. The Designated Officer shall provide an annual written investigation report to the Chief Officer.
2. Where the Designated Officer is considering a recommendation to the Superintendent that the Superintendent exercise authority delegated by the Board to suspend or terminate a teacher or administrative designation under the Education Act, the Designated Officer shall consult with Division staff who are typically responsible for such recommendations regarding the necessary process. In such 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. The Chief Officer shall follow-up with the employees responsible to ensure those actions are taken.
4. The person making the disclosure 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 must prepare an annual report on all disclosures made or referred to the Designated Officer. The report will include:
 - the number of disclosures received or referred to the designated officer, the number of disclosures acted on, and the number not acted on;
 - the number of investigations commenced by the Designated Officer; and
 - 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.
6. The Chief Officer's annual report will be made available to the public.

G. Offences and Penalties under the *Public Interest Disclosure (Whistleblower Protection) Act*

1. The Division does not impose penalties for breach of the *Public Interest Disclosure (Whistleblower Protection) Act*.
2. Part 7, sections 46 to 52 of the *Public Interest Disclosure (Whistleblower Protection) Act* outlines offences and associated fines.

Reference

[*Public Interest Disclosure \(Whistleblower Protection\) Act \(PIDA\)*](#)
[Public Interest Commissioner – Complaint of Reprisal Form](#)
[*Education Act*](#)
[F 4-02 Safe Disclosure of Wrongdoing – General Information](#)