

Original Approval Date: September 10, 2014

Parent Policy: [Ethical Conduct and Safe Disclosure Policy](#)

## **Ethical Conduct and Safe Disclosure Procedure - Disclosures under the Public Interest Disclosure Act**

<b>Office of Administrative Responsibility:</b>	Office of Audit and Analysis
<b>Approver:</b>	President
<b>Scope:</b>	Matters pertaining to the Public Interest Disclosure Act (PIDA) extend to staff and faculty.

### Purpose

To outline disclosure and investigative practices at the university in support of the *Public Interest Disclosure (Whistleblower Protection) Act*. The purposes of the Act are:

- a. to facilitate the disclosure and investigation of significant and serious matters in or relating to departments, public entities or offices of the Legislature, that an employee believes may be unlawful, dangerous to the public or injurious to the public interest;
- b. to protect employees who make disclosures;
- c. to manage, investigate and make recommendations respecting disclosures of wrongdoings and reprisals; and
- d. to promote public confidence in the administration of departments, public entities and offices of the Legislature.

### PROCEDURE

#### 1. DISCLOSING UNDER THE PUBLIC INTEREST DISCLOSURE ACT (PIDA or the Act):

Faculty or staff who believe, in **good faith**, a wrongdoing has occurred are encouraged to come forward with such concerns.

The Act applies in respect of the following **wrongdoings** at the university:

- a. a contravention of a Provincial Act, a regulation made pursuant to an Act, an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada;
- 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 in the performance of the duties or functions 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 counseling an individual to commit a wrongdoing mentioned in clauses (a) to (c).

This avenue of disclosure applies to wrongdoings that occur after June 1, 2013.

The President and Vice Chancellor serves as the University's **Chief Officer** as defined under PIDA.

Disclosures within the university should be made to the **Designated Officer** directly or via the Office of Safe Disclosure & Human Rights. The University Auditor is appointed as the university's designated officer under PIDA.

Disclosures under the Act should:

- a. be made in writing;
- b. include a description of the wrongdoing;
- c. include the name of the individual or individuals alleged to have committed the wrongdoing, or to be about to commit the wrongdoing;
- d. include the date, or approximate time period, of the wrongdoing; and
- e. identify whether a previous disclosure regarding the wrongdoing has been made and whether a response has been received. If a response is received, a copy of the response must be attached.

The designated officer may request any additional information the designated officer reasonably requires in order to assess or investigate the matters set out in the disclosure.

Disclosures may be made in confidence. Subject to legislative obligations, such as FOIPP, and the principles of procedural fairness and natural justice, the designated officer will ensure the confidentiality of the information collected and will protect the identity of the persons involved in the disclosure process, including the disclosing employee, any witnesses and the alleged wrongdoer, to the fullest extent possible. When information is shared it will be related to requirements pertaining to the following circumstances:

- a. establishing interim measures to address the complaint, if needed,
- b. initiating, investigating and resolving the complaint,
- c. conforming to the principles of due process and natural justice,
- d. satisfying legal requirements, and
- e. ensuring the health and safety of employees in the workplace.

Disclosures to the designated officer may also be made anonymously. Reporting an allegation anonymously may affect the university's ability to conduct a competent investigation.

The designated officer may consult with the Office of the Public Interest Commissioner (Commissioner) with respect to the management and investigation of a disclosure.

Employees may disclose directly to the **Commissioner** if:

- the employee has made a disclosure in accordance with these procedures to the designated officer and an investigation in respect of the disclosure has not been completed in accordance with the procedures,
- the employee has made a disclosure in accordance with these procedures and the matter has not been resolved within the time periods established under the procedures,
- the employee has made a disclosure in accordance with these procedures, the investigation under those procedures 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 President and Vice-Chancellor or the University Auditor,
- 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 a disclosure under section 9 of the Act,
- the employee has made a disclosure in accordance with these procedures and is unable to complete the procedures because a **reprisal** has been taken or directed against the employee,
- the employee reasonably believes that a reprisal is likely to be taken or directed against the employee if the disclosure is made in accordance with these procedures, or
- in the circumstances prescribed in the PIDA regulations.

The Commissioner may request that disclosures be made in writing.

Any employee may consult with the University Auditor or the Office of Safe Disclosure & Human Rights regarding options for coming forward with a complaint under the Act.

## 2. RECEIVING DISCLOSURES:

Once a formal disclosure has been made to the designated officer, the officer will:

- a. Acknowledge receipt, in writing, of the disclosure within five days; and
- b. Determine whether the disclosure merits investigation within ten business days and relay that decision, in writing, to the individual who made the disclosure.

In determining whether to investigate the disclosure, the designated officer will consider whether:

- a. the allegations, if true, constitute a wrongdoing as defined by the Act;
- b. the information provided is specific enough to be investigated;
- c. the alleged wrongdoing has occurred within time period covered by the Act; and
- d. the subject matter is within the University's authority investigate.

If the matter is determined to constitute an imminent risk of substantial or specific danger to the life, health or safety of individuals, or to the environment, the designated officer will take steps to immediately address the matter and will report the matter to the Commissioner as soon as reasonably practical. The President and Vice-Chancellor will also be informed.

If the matter is outside the university's scope or jurisdiction, the matter will be forwarded to the appropriate entity or authority. This includes matters pertaining to an Act or regulation of the Legislature of Alberta or under an Act or regulation of the Parliament of Canada. This decision shall be documented by the designated officer and the President and Vice-Chancellor and General Counsel, if appropriate, will be informed.

## 3. INVESTIGATING DISCLOSURES:

If, upon initial review, it is determined that there will be an investigation, the following will apply to all elements of the investigation:

- Employees against whom the complaint has been made have legal rights that must be respected;
- Investigations will be in accordance with the principles of procedural fairness, natural justice and in compliance with applicable policies and collective agreements;
- Any discipline arising from an investigation shall be undertaken in accordance with the relevant collective agreements;
- All employees are required to be truthful and cooperative in investigations of allegations;
- All participants in an investigation shall keep the details and results of the investigation confidential. details and results of investigations should not be disclosed or discussed with anyone other than those personnel associated with the University who have a legitimate need to know such results in order to perform their duties and responsibilities. A breach of confidentiality may result in discipline. Consultation with representation is not considered a breach of confidentiality; and
- Participants are entitled to protection from reprisal for having participated in good faith with an investigation.

Investigations will be completed within one hundred and ten (110) business days if the decision to investigate has been made. The President and Vice Chancellor can grant an extension of up to thirty (30) business days for investigations, if required.

If specialized expertise is retained by the designated officer to assist in the investigation (e.g., lawyers, specialized investigators, forensic auditors), care will be taken to handle all correspondence to or from any expert, including billings for these services, with due regard to confidentiality requirements and protection of identity under PIDA.

If in the course of an investigation, the designated officer has reason to believe that another wrongdoing has been committed or may be committed, (s)he may choose to investigate the matter further, utilizing the relevant policy and procedure. Participants in an investigation should report any additional allegations or concerns regarding reprisal directly to the Designated Officer or via the Office of Safe Disclosure & Human Rights as soon as possible.

**4. REPORTING INVESTIGATIVE RESULTS:**

Report findings will be validated as required to meet the principles of procedural fairness and natural justice. This reporting process will include the opportunity for complainants and respondents to receive clarification of the investigator's findings, if needed.

Reports, once finalized, will be addressed to the President and Vice-Chancellor. Further dissemination of the report will be determined by the President and Vice-Chancellor. The University Auditor will forward a summary of the report to the Audit Committee Chair. If required, formal enforcement and follow-up of corrective measures will be undertaken by the university.

Should the report point to alleged offences under an act or regulation of the Parliament of Canada, it will be reported by the Designated Officer to General Counsel who, in turn, will recommend to the President and Vice-Chancellor the appropriate reporting as determine by the act or regulation in question.

The designated officer will prepare a summary of PIDA disclosures and resolution for inclusion in the university's annual report and the chief officer's annual report to the Commissioner.

**5. REPRISAL:**

As noted in the university's *Ethical Conduct and Safe Disclosure Policy*, the university will not tolerate any reprisal, directly or indirectly, against anyone who, in good faith, makes a report.

All complaints of reprisals for disclosures made under PIDA will be managed and investigated by the Commissioner.

**DEFINITIONS**

Definitions should be listed in the sequence they occur in the document (i.e. not alphabetical).

Any definitions listed in the following table apply to this document only with no implied or intended institution-wide use. [[▲Top](#)]

<b>Public Interest Disclosure Act (PIDA or the Act)</b>	<p>An Act of the Province of Alberta that:</p> <ol style="list-style-type: none"> <li>a. facilitates the disclosure and investigation of significant and serious matters in or relating to departments, public entities or offices of the Legislature, that an employee believes may be unlawful, dangerous to the public or injurious to the public interest,</li> <li>b. protects employees who make those disclosures,</li> <li>c. manages, investigates and makes recommendations respecting disclosures of wrongdoings and reprisals,</li> <li>d. promotes public confidence in the administration of departments, public entities and offices of the Legislature, and</li> <li>e. any other purpose prescribed in the regulations.</li> </ol>
<b>Good faith</b>	<p>A submission of information, that is based on reasonable belief and is not malicious, frivolous or vexatious, to the appropriate university authority</p>
<b>Wrongdoings</b>	<p>PIDA defines wrongdoings as:</p> <ol style="list-style-type: none"> <li>a. Illegal acts;</li> <li>b. An act or omission that creates a substantial and specific danger to the life, health or safety of individuals;</li> <li>c. A substantial and specific danger to the environment;</li> <li>d. Gross mismanagement of public funds;</li> <li>e. Counselling a person to commit a wrongdoing.</li> </ol>

<b>Chief Officer</b>	Chief officer is the executive leader of a public institution, as identified to the PIDA commissioner. At the University of Alberta, this is the President and Vice-Chancellor.
<b>Designated Officer</b>	The designated officer is the senior university official responsible for the managing and investigating disclosures under the PIDA. At the University of Alberta this is the University Auditor. ( <a href="http://disclosure.ualberta.ca/">http://disclosure.ualberta.ca/</a> )
<b>Commissioner</b>	The Alberta Ombudsman has been appointed as the Public Interest Commissioner.  The Office of the Public Interest Commissioner can be contacted Monday to Friday 08:15-12:00/13:00-16:30 at:  Toll-free province-wide: 1-855-641-8659 Calgary: 403-592-3106 Edmonton: 780-641-8659  or via email at <a href="mailto:info@pic.ualberta.ca">info@pic.ualberta.ca</a>
<b>Reprisal</b>	Punitive actions taken against a person for making a good faith disclosure, including, but not limited to: <ul style="list-style-type: none"> <li>a. Disciplinary action</li> <li>b. Termination</li> <li>c. Adversely affecting employment conditions</li> <li>d. A threat to do any of the above</li> </ul>

## **FORMS**

Should a link fail, please contact [uappol@ualberta.ca](mailto:uappol@ualberta.ca). [[▲Top](#)]

Office of the Public Interest Commissioner – Compliant of Reprisal Form:

<http://www.pic.alberta.ca/reprisal-form.aspx>

## **RELATED LINKS**

Should a link fail, please contact [uappol@ualberta.ca](mailto:uappol@ualberta.ca). [[▲Top](#)]

*Public Interest Disclosure (Whistleblowing Protection) Act*

[http://www.qp.alberta.ca/Laws\\_Online.cfm](http://www.qp.alberta.ca/Laws_Online.cfm)