



Policy 9.08

Category: Welcoming, Caring, Respectful and Safe School

Public Interest Disclosure Act (PIDA)

BACKGROUND

The *Public Interest Disclosure (Whistleblower Protection) Act* [PIDA] is a cornerstone of the government's accountability, transparency and transformation mandate. The Act came into force on June 1, 2013. The Regulation is also in place.

The purposes of this Act are:

- 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.
- to protect employees who make those disclosures;
- to manage, investigate and make recommendations respecting disclosures of wrongdoings and reprisals; and
- to promote public confidence in the administration of departments, public entities and offices of the Legislature.

Wrongdoing includes:

- illegal acts as outlined in the Criminal Code of Canada;
- threats to health, safety or the environment;
- gross mismanagement of public funds;

The Act covers:

- the Alberta Public Service and corporate agencies, boards and commissions with employees; and
- post-secondary academic institutions, school boards, charter schools, accredited private schools that receive grants, and public sector health entities.

POLICY STATEMENT

1. The CAPE Charter Board supports the The Public Interest Disclosure Act [PIDA]. The CAPE Charter Board believes in a welcoming, caring, respectful and safe learning environment whereby employees feel comfortable in all aspects of their job including when it comes to filing a complaint and is committed to the protection of employees from reprisal for making a disclosure. This belief in a positive supportive environment is imbedded in the CAPE charter and CAPE practices.

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PURPOSE

The purpose of the policy is to ensure that:

2. individuals are aware of and understand The Public Interest Disclosure (Whistleblower Protection) Act [PIDA];
3. those in possession of information regarding reportable acts are aware of their right to report;
4. individuals are advised of available avenues to pursue a complaint;
5. those subjected to acts of reprisal are encouraged to access any assistance they may require in order to pursue a complaint.

DEFINITIONS

6. **Chief officer** - the deputy minister of a department, the department head of an office of the Legislature and, with respect to a public entity, the prescribed individual. The PIDA Regulation further defines a chief officer in section 2(2) through definitions in existing statutes in order to capture the broader public sector.
7. **Designated Officer** - the senior official designated by each chief officer to manage and investigate disclosures under this Act.
8. **Employee** - an individual employed by, or an individual who has suffered a reprisal and has been terminated by, a department, a public entity or an office of the Legislature or an individual. The PIDA Regulation expands the definition of employee to include certain health professionals in the public health sector, school boards, accredited private schools that receive grants, charter schools, corporate agencies, boards and commissions with employees, and colleges, universities and technical institutes.
9. **Public Entity** - any agency, board, commission, Crown corporation or other entity designated as a public entity in the regulations or relating to departments, public entities or offices of the Legislature or relating to employees. The PIDA Regulation identifies the public entities through existing legislative frameworks in the broader public sector as identified above.
10. **Wrongdoing** - a contravention of an 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, 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, gross mismanagement of public funds or a public asset, and knowingly directing or counselling an individual to commit a wrongdoing mentioned above.

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11. **Reprisal** - any adverse employment action taken against an employee who seeks advice on making a disclosure, makes a disclosure, or co-operates in an investigation of wrongdoing, or declines to participate in a wrongdoing in accordance with the Act. Examples of reprisal include a dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job, change of job location, reduction in wages, change in hours of work or reprimand, any other measure that adversely affects the employee's employment or working conditions (e.g., bullying), and threats to do any of the above.
12. **Disclosure** - except where the context requires otherwise, means a disclosure of wrongdoing made in good faith by an employee in accordance with this Act.

ROLES & RESPONSIBILITIES

13. **Public Interest Commissioner**

The roles and responsibilities are broadly outlined in section 45 of PIDA. They include:

- to carry out the purposes of this Act set out in section 2 which deals with wrongdoings within public entities;
- to review and investigate disclosures and complaints of reprisals made under this Act; and
- to perform any other functions that are set out in this Act or the regulations.

14. **Chief Officer**

Direct involvement of senior management in the reporting system appropriately reflects the seriousness of whistleblower matters. Some of the key responsibilities of the Chief Officer include:

- establishing and maintaining a working environment that encourages staff to report wrongdoing;
- establishing an effective internal reporting system to appropriately deal with reports of wrongdoing, support staff who report, and ensure reprisals are not taken against them;
- establishing an internal reporting procedure that contains a clear statement signed by the Chief Officer indicating the public entity is committed to the highest standards of ethical and accountable conduct and will support staff who report wrongdoing;
- ensuring that staff are aware of the internal disclosure procedure and the whistleblower protections of PIDA through effective communication and training;

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- ensuring that an experienced Designated Officer is responsible for receiving and dealing with reports of wrongdoing; and
- ensuring adequate financial and human resources are dedicated towards achieving these outcomes.

The Chief Officer needs to ensure that when wrongdoing is reported, it is dealt with appropriately and the staff involved are supported. This includes:

- assessing all disclosures of wrongdoing according to established policies and procedures;
- as applicable, ensuring confidentiality of the employee making the disclosure, the employee who is the subject of the disclosure, and any witnesses involved;
- being advised on decisions made in investigation reports, and ensuring follow-up on recommendations or actions are completed according to established timeframes;
- providing adequate resources to those investigating a disclosure;
- ensuring systems and strategies are established to mitigate the risk of reprisals;
- ensuring that the workplace situation is effectively managed; particularly if there is conflict or reprisal is threatened or takes place;
- taking appropriate action against anyone who threatens or takes reprisal against a person disclosing a wrongdoing;
- taking appropriate remedial action in response to any findings that substantiate the allegations of wrongdoing; and
- implementing any organizational reform that is necessary to address any identified systemic issues.
- ensuring that annual reporting requirements are met as per Section 32 of the Act.

15. **Designated Officer**

The Designated Officer is appointed by the Chief Officer to ensure the public entity carries out its responsibilities under the legislation. Key responsibilities include:

- being a contact point for general advice and guidance about the operation of PIDA and the organization's internal process;
- liaising with the Office of the Public Interest Commissioner;
- liaising with the Chief Officer;
- impartially assessing each disclosure to determine whether it is a public interest disclosure;
- coordinating the disclosure process;
- responsibility to carry out or appoint an investigator to carry out the investigations;

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- responsibility for overseeing and coordinating an investigation where an investigator has been appointed;
- reviewing results of completed investigations, providing the findings and any recommendations to the Chief Officer;
- advising the whistleblower of the progress of an investigation into the disclosed matter, and inform them of the outcome of the investigation;
- establishing and managing a confidential filing system;
- developing a tracking system to manage disclosures and investigations;
- collating and publishing statistics on disclosures made;
- taking all necessary steps to ensure the identity of the whistleblower and the identity of the person who is the subject of the disclosure are kept confidential; and
- protecting employees involved in a disclosure of wrongdoing from possible reprisals.

LEGAL GROUNDS & APPLICATION

16. This policy is grounded in the Acts stated below.
17. This policy covers all employees.

RESPONSIBILITIES WITHIN THE ORGANIZATION

18. The Superintendent, as the chief Officer, shall structure, or cause to be structured, procedures in support of this policy.
19. The Principal, as the Designated Officer, is responsible for making reasonable efforts to ensure that all individuals bound by this policy are aware of the policy, have the opportunity to read the policy, and to ask questions.
20. The Principal, as the Designated Officer, is responsible for administering this policy.
21. All media communications are the responsibility of the Superintendent, the Chief Officer. All media requests are to be referred to the Superintendent.

GENERAL

22. It is strongly recommended that any person who is aware of any wrongdoing bring the matter to the attention of the Designated Officer (Principal).

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23. The employee may also make the disclosure to the Public Interest Commissioner and advise the Commissioner that the disclosure has been made to the employee's Designated Officer (Principal) for the purpose of commencing an investigation.
24. All complaints shall be handled with sensitivity, discretion and confidentiality to the extent allowed by the circumstances and the law.
25. Adverse personnel action or reprisals shall not be taken against any employee for in good faith reporting of wrongdoings.
26. In the event that adverse personnel action or reprisals occur, the Designated Officer (Principal) shall immediately take action to stop or remediate the adverse personnel action or reprisals by any means available and appropriate.
27. A reporting employee found to have acted maliciously or vindictively in the making of a false report will be subject to disciplinary action which may include a letter of reprimand, dismissal, suspension without pay, or legal action.
28. Information/investigation of these issues is kept separate and secure from the employee's professional file.
29. All hard copy information is to be secured in locked storage spaces within locked spaces and electronic information is to be secured through passwords on documents, folders, and computers.
30. The Designated Officer (Principal) must keep accurate records of the investigation including dates, times, locations, possible corroborating information, and resulting outcome.

References:

The Public Interest Disclosure Act

Human Rights Act

Criminal Code of Canada

Individual's Rights Protection Act

Human Rights, Citizenship and Multiculturalism Act

Freedom of Information and Protection of Privacy Act

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