

On June 1, 2013, the *Public Interest Disclosure (Whistleblower Protection) Act* (“PIDA”) came into force in Alberta.

The purpose of PIDA is to:

- facilitate the disclosure and investigation of significant and serious matters in public entities, including school boards, that an employee believes may be unlawful, dangerous to the public, or injurious to the public interest;
- protect employees who make those disclosures;
- manage, investigate and make recommendations respecting disclosures of wrongdoings and reprisals, and
- promote public confidence in the administration of public entities.

Under PIDA, no person may make reprisals against an employee for making a disclosure, seeking advice about making a disclosure, or taking any steps under PIDA, so long as the employee is acting in good faith.

The Board is required under Section 5(1) of PIDA to establish and maintain, in accordance with PIDA, written procedures for managing and investigating disclosures by employees of the Board. Those written procedures are set out herein.

1. Designation of Chief Officer
 - 1.1. The Superintendent is designated the Chief Officer for the purpose of the overall administration and reporting required under PIDA.
2. Designation of Designated Officer
 - 2.1. The Assistant Superintendent of Human Resources is designated the Designated Officer for the purpose of administering and investigating disclosures under PIDA.

Application

1. This administrative procedure applies to wrongdoings in or relating to the Division, its schools, departments, and employees that involve:
 - 1.1. A contravention of an Act of Alberta or Canada or the Regulations related to those Acts, or
 - 1.2. An act or omission that creates
 - 1.2.1. 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
 - 1.2.2. A substantial and specific danger to the environment, or
 - 1.2.3. Gross mismanagement of public funds or a public asset, or
 - 1.2.4. Knowingly directing or counseling an individual to commit one of the wrongdoings listed above.

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
- 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.
 - 2.1. Written complaints must, according to PIDA, be made on the official "[Complaint of Reprisal Form](#)".
 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 Assistant Superintendent of Human Resources (the Designated Officer) in writing. The Public Interest Disclosure Form outlines the information required in a disclosure of wrongdoing or a reprisal (PHRD Form # 4-02).
2. In the event that disclosure to the Assistant Superintendent of Human Resources is not appropriate due to a conflict of interest, with respect to the nature of the disclosure of 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:
 - 3.1. Advise the Board Chair of the nature of the disclosure, whereupon the Board may authorize an investigation into the disclosure; and
 - 3.2. Advise the Commissioner of the disclosure and its referral to the Board, 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 investigating 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 disclosure 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 of 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 or complaint of reprisal is received.
4. These timelines may be extended by up to thirty (30) days by the Superintendent, or for a longer period of time if 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 to suspend or terminate a teacher or administrative designation under the School Act, the Designated Officer shall consult with other Division staff typically responsible for such recommendations concerning the necessary process. In such event, the written investigation report shall be provided to the Superintendent in the course of any process under the School 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 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.
- 5.1 This report must be included in the annual report that is made available to the public.

Appeals

1. 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 grounds for disciplinary action up to and including termination of employment.

Reference

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