

SCHOOL DISTRICT NO. 53 (Okanagan Similkameen)

POLICY

No. D-7

Approved: April 27, 2022
Amended: November 29, 2023

PUBLIC INTEREST DISCLOSURE ACT ('WHISTLE BLOWER')

Preamble

The Board of Education is committed to honesty, integrity and accountability in its operations, programs and services and to promoting a culture of openness and transparency. The Board of Education is also committed to upholding ethical standards in the School District and will foster and maintain an environment where employees can work safely and appropriately without fear or retaliation. All employees performing work on behalf of the School District are expected to conduct themselves in professional manner, adhere to applicable laws and Board policies and procedures that apply to their work activities.

The purpose of this policy and related regulations is to establish a process, in compliance with the *Public Interest Disclosure Act* (PIDA), for employees (both present and past) to report, in good faith, wrongful or unlawful conduct without fear of retaliation or reprisal. The Board expects employees who have serious concerns about any aspect of the School District's operations with respect to potential evidence of wrongdoing, to come forward and voice those concerns.

Policy

This policy applies to alleged wrongdoing related to the School District's operations or personnel. This policy does not displace other mechanisms set out in School District policy for addressing and enforcing standards of conduct, disputes, complaints or grievances, including issues of discrimination, bullying and harassment, occupational health and safety, or disputes over employment matters or under collective agreements.

The responsibility of the administration and enforcement of this policy lies with the superintendent of schools. In the event that the superintendent is unavailable to perform their duties under this policy, the superintendent may delegate their authority as the 'Designated Officer' to the secretary treasurer or assistant superintendent or director of inquiry & learning.

It is a violation of this policy for any employee to knowingly make a false complaint of wrongdoing or to provide false information about a complaint. Individuals who violate this policy are subject to disciplinary action up to and including dismissal.

Statement of Principles

The School District is committed to supporting ethical conduct in its operations and seeks to foster a culture in which employees are encouraged to disclose wrongdoing, including by receiving, investigating and responding to disclosures and by providing information and training about PIDA, this policy and regulations.

The School District will investigate disclosures that it receives under this policy. Investigations under this policy will be carried out in accordance with the principles of procedural fairness and natural justice.

The School District will not commit or tolerate reprisals against any employee who in good faith makes a request for advice, makes a disclosure, participates in an investigation or makes a complaint under this policy.

The School District is committed to protecting the privacy of disclosers, persons accused of wrongdoing and those who participate in investigations in a manner that is consistent with its obligations under PIDA and *Freedom of Information and Protection of Privacy Act* (FIPPA).

All personal information that the School District collects, uses or shares in the course of enforcing this policy will be treated as confidential and will be used and disclosed as described in this policy, regulations, PIDA or as permitted or required under FIPPA.

Privacy and Confidentiality

All personal Information that the School District collects, uses or shares in the course of receiving or responding to a disclosure, a request for advice, a complaint of a reprisal, or conducting an investigation will be treated as confidential and will be used and disclosed as described by this Policy, Procedures, PIDA or as otherwise permitted or required under FIPPA and other applicable laws.

Reporting

Each year, the superintendent, or designate shall prepare, in accordance with the requirements of PIDA, and make available, a report concerning any disclosures received, investigations undertaken and findings of wrongdoing. All reporting under this policy will be in compliance with the requirements of FIPPA.

Responsibility

The superintendent is responsible for the administration of this policy and shall ensure that training and instruction is available to all employees concerning this policy, Procedures and PIDA.

In the event that the superintendent is unable or unavailable to perform their duties under this policy, the superintendent may delegate their authority in writing to the secretary treasurer or other senior members of School District.

IMPORTANT LINKS AND RESOURCES:

[Public Interest Disclosure Act \(gov.bc.ca\)](http://gov.bc.ca)

[Public Interest Disclosure Act \(PIDA\) - Employee training video \(vimeo.com\)](https://vimeo.com)

From the Office of the Ombudsperson of British Columbia:

Free Online Course - [Speaking Up Safely](#)

[Public Interest Disclosure Resources](#)

[PIDA-FAQs.pdf \(bcombudsperson.ca\)](#)

SCHOOL DISTRICT NO. 53 (Okanagan Similkameen)

REGULATIONS

No. D-7

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PUBLIC INTEREST DISCLOSURE ACT ('WHISTLE BLOWER') POLICY

Who may make a disclosure?

A disclosure is a report of wrongdoing under this policy.

Wrongdoing refers to:

- A serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada.
- An act or omission that creates a substantial and specific danger to the life, health, or safety of persons, or to the environment, other than a danger that is inherent in the performance of an employee's duties or functions.
- A serious misuse of public funds or public assets.
- Gross or systematic mismanagement.
- Knowingly directing or counselling a person to commit any act or omission described above.

The District expects that an employee who is aware of or witness to any improper activity or wrongdoing will bring the matter to the attention of the District.

- Any employee may report wrongdoing under this policy if the alleged wrongdoing occurred while the employee was employed by the School District.
- Complaints or reports received from members of the public, school trustees or from employees who were not employed by the School District at the time that wrongdoing occurred or is alleged to have occurred are outside the scope of this policy and regulations.

1. How to make a Disclosure

- a) An employee who reasonably believes that a wrongdoing has been committed or is about to be committed may make a disclosure to any of the following:
 - That person's supervisor,
 - The superintendent,
 - A designated officer other than the superintendent, or
 - The ombudsperson.
- b) A disclosure should be submitted in writing using a disclosure form or in other written form should include the following information if known:
 - A description of the wrongdoing,

- The name of the person(s) alleged to be responsible for or to have participated in the wrongdoing,
 - The date or expected date of the wrongdoing,
 - If the wrongdoing relates to an obligation under a statute or enactment, the name of the statute or enactment; and
 - Whether the wrongdoing has already been reported and if so, to whom and a description of the response received.
- c) A disclosure may be submitted to the District on an anonymous basis but must contain sufficient information to permit the School District to conduct a full and fair investigation into the alleged wrongdoing. If sufficient detail to permit an investigation is not submitted, the School District may take no action with respect to the disclosure.
- d) Any notices required to be given to a discloser under this policy or PIDA will not be provided to an anonymous discloser, except at the discretion of the designated officer and where the discloser has provided contact information.
- e) A discloser who is considering making a disclosure may request advice from any of their union representatives, a lawyer, their supervisor, a designated officer, or the ombudsperson.
- f) A discloser should not make a disclosure to a person if the allegations relate to wrongdoing by that person. Any person who receives a disclosure and reasonably believes that the allegations of wrongdoing relate to their own acts or omissions must refer the allegations of wrongdoing to another person under this policy with responsibility for receiving a disclosure.

2. How to make a Disclosure about Urgent Risk

Urgent risk arises when an employee reasonably believes that a matter constitutes an imminent risk of a substantial and specific danger to the life, health or safety of persons or to the environment.

- a) PIDA permits employees to make public disclosures if the employee reasonably believes that the matter poses an urgent risk.
- b) Before making a public disclosure of an urgent risk the employee must:
- Consult with the relevant protection official (public health officer, emergency management BC, or police),
 - Receive and follow the direction of the protection official, including if the protection official directs the employee not to make the public disclosure,
 - Refrain from disclosing, publishing or otherwise sharing personal information except as necessary to address the urgent risk,
 - Refrain from disclosing any information that is privileged or subject to a restriction on disclosure under PIDA or any other enactment of British Columbia or Canada, including legal advice privilege, litigation privilege or another ground of common law privilege, and
 - Seek appropriate advice if the employee is uncertain about what personal information, privileged or other information may be disclosed as part of a public disclosure.

- c) An employee who makes a public disclosure in relation to an urgent risk is expected to provide timely notification to their supervisor or superintendent about the public disclosure or submit a disclosure in accordance with section 2 above.
- d) If the employee decides not to make a public disclosure or is directed by a protection official not to do so, the employee is nevertheless expected to report urgent risks without delay to the superintendent or a designated officer.

3. Referral of Disclosure to Designated Officer

Designated Officer means the superintendent and any other senior member of the staff designated by the superintendent from time to time, which includes the secretary treasurer, the assistant superintendent, director of inquiry & learning and the chair of the Board of Education.

- a) A supervisor, or employee who receives a disclosure or referral under this policy must promptly refer the same to the appropriate designated officer as follows:
 - Unless the allegations concern alleged wrongdoing by the superintendent, the disclosure or referral shall first be referred to the superintendent who may delegate their duties under the policy and this regulation to any other designated officer.
 - If the allegations concern alleged wrongdoing by the superintendent, then the disclosure or referral should be referred to the office of the ombudsperson.

4. Responsibilities of the Designated Officer

The designated officer is responsible to:

- Receive and respond to any disclosure or referral.
- Receive and respond to reports made by employees about urgent risks.
- If the designated officer reasonably believes that an urgent risk exists, they may make a report to the relevant protection official.
- Review allegations of wrongdoing and determine if they fall within the scope of PIDA or this policy.
- Refer allegations falling outside the scope of PIDA and this policy to the appropriate authority or dispute resolution process as applicable.
- If a disclosure relates to wrongdoing at another government body that is subject to PIDA, refer the disclosure to that institution.
- Seek clarification of the allegations of wrongdoing from the discloser as needed.
- If appropriate, initiate an investigation into allegations of wrongdoing in accordance with section 6 below.
- Assess the risk of reprisal to the discloser and take appropriate action to mitigate the risk.
- Manage communications with the discloser and the respondent.
- Notify the discloser and respondent of the outcome of the investigation.
- Ensure that all personal information received by the School District is appropriately protected against unauthorized access, collection use, disclosure, theft or loss in accordance with FIPPA and PIDA.

5. Responsibility of employees

All employees are responsible to:

- Make any disclosure in good faith and on the basis of a reasonable belief that wrongdoing has or is expected to occur.
- Refrain from engaging in reprisals and report all reprisals in accordance with this procedure and PIDA.
- Maintain the confidentiality of all personal information received in accordance with this policy, regulations and PIDA.
- Provide their reasonable cooperation with investigations by the School District or the ombudsperson.
- Seek appropriate advice if an employee is uncertain about whether to make a disclosure or public disclosure of an urgent risk.
- Comply with the requirements of this regulation and PIDA concerning urgent risks.

6. Investigations

- a) Every person involved in receiving, reviewing and investigation disclosures, referrals or complaints of reprisals must carry out those functions in an expeditious, fair and proportionate manner as appropriate in the circumstances and as required under PIDA.
- b) The School District shall seek to complete all investigations within 30 calendar days of receipt of a disclosure or referral or complaints of reprisal. The designated officer may shorten or extend this time period depending on the nature and complexity of the allegations.
- c) The designated officer may expand the scope of any investigation beyond the allegations to ensure that any potential wrongdoing discovered during the investigation is investigated.
- d) All investigations shall be conducted by an internal or external investigator with sufficient qualifications and experience to carry out the investigation.
- e) The designated officer may consult the ombudsperson regarding a disclosure or referral or refer allegations of wrongdoing in whole or in part to the ombudsperson, provided that notice of referral is provided to the discloser.
- f) The designated officer may refuse to investigate or postpone or stop an investigation if the designated officer reasonably believes that:
 - The disclosure or referral does not provide adequate particulars of the wrongdoing.
 - The disclosure or referral is frivolous or vexatious, has not been made in good faith, has not been made by a person entitled to make a disclosure or referral under this policy or PIDA or does not deal with wrongdoing.
 - The investigation would serve no useful purpose or could not reasonably be conducted due to the passage or length of time between the date of the alleged wrongdoing and the date of the disclosure or referral.
 - The investigation of the disclosure would serve no useful purpose because the subject matter of the disclosure is being or has been appropriately dealt with.
 - The disclosure relates solely to a public body decision.

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- The allegations are already being or have been investigated by the ombudsperson, the School District or other appropriate authority.
 - The investigation may compromise another investigation.
 - PIDA otherwise requires or permits the School District to suspend or stop the investigation.
- g) Subject to the School District's obligations under FIPPA and section 2(c) above, the discloser and the respondent will be provided with a summary of the School District's findings, including:
- Notice of any finding of wrongdoing.
 - A summary of the reasons supporting any finding of wrongdoing.
 - Any recommendations to address findings of wrongdoing.

7. Privacy and Confidentiality

- a) All personal information that the School District collects, uses or shares in connection with a disclosure, referral, request for advice or investigation shall be treated as confidential and shall be used and disclosed by the School District only as described in this policy, regulations and PIDA unless otherwise permitted or required under FIPPA or other applicable laws.
- b) Personal information that is collected, used or shared by the School District in the course of receiving, responding or investigating a disclosure, request for advice, a referral or a complaint of reprisal shall be limited to the personal information that is reasonably required for these purposes.
- c) Any person who, in their capacity as an employee of the School District, receives information about the identity of a discloser shall maintain said identity in confidence and may only use or share that information for the purposes described in this policy or PIDA, except with the consent of the discloser or as authorized or required by PIDA or other applicable laws.
- d) The School District shall ensure that there are reasonable security measures in place to protect all personal information that the School District collects uses in the course of receiving a disclosure, a referral, a request for advice, complaints of reprisal or investigation including ensuring that such information is subject to appropriate controls to ensure that it is only shared by its employees internally on a need-to-know basis.

8. Reprisals

- a) The School District will not tolerate reprisals against employees.
- b) Any employee who believes that they have been the subject of a reprisal may make a complaint to the ombudsperson, who may investigate in accordance with the procedures set out in PIDA.
- c) Any person who engages in any reprisal shall be subject to disciplinary action up to and including, for an employee, dismissal for cause.