

CODE: FBEC.AR

EFFECTIVE DATE: (29-01-2020)

TOPIC: Public Interest Disclosure (Whistleblower Protection)

ISSUE DATE: (29-01-2020)

REVIEW YEAR: (2021)

OBJECTIVE

To meet the Division's responsibilities for implementing the *Public Interest Disclosure (Whistleblower Protection) Act* by assigning roles, responsibilities and defining expectations for Division procedures that facilitate employees to make confidential disclosures about wrongdoing in a safe setting that is free from reprisal.

DEFINITIONS

In this regulation, **Act** means the *Public Interest Disclosure (Whistleblower Protection) Act*, and any regulations thereunder.

The Superintendent of Schools is the **Chief Officer**, as per the *Act*, with overall responsibility for procedures related to the *Act*.

In this regulation, **Commissioner** refers to the Office of the Public Interest Commissioner.

The **Designated Officer** is the individual designated by the Chief Officer with responsibility for the management and investigation of any disclosure under the *Act*.

Disclosure means informing an appropriate person about wrongdoing or believed wrongdoing of another Division employee or related official.

For the purposes of this regulation, **Employee** refers to an individual employed by Edmonton Public Schools who makes a disclosure under the *Act*.

Reprisal means any adverse action, or threat of action, taken or directed to be taken against an employee for participation in a disclosure.

Wrongdoing is defined as:

- an illegal act;
- an act or omission that creates an imminent risk to the health and safety of individuals;
- a specific threat to the environment;
- gross mismanagement of public funds or a public asset; or
- knowingly directing or counselling an individual to commit a wrongdoing mentioned in the above instances.

RESPONSIBILITY

1. The Chief Officer shall:

- a. establish and maintain, in accordance with the Act, written procedures for managing and investigating disclosures;
 - b. approve recommendations resulting from investigations;
 - c. fulfill the annual reporting requirements; and
 - d. ensure employee awareness of the Act, this regulation and the disclosure procedures.
2. The Division General Counsel is the Designated Officer responsible for ensuring Edmonton Public Schools (EPSB) carries out its responsibilities under the Act and shall:
- a. create and maintain the Edmonton Public Schools Public Interest Disclosure Procedures in compliance with the Act and accordance with the principles of procedural fairness and natural justice;
 - b. be a point of contact for general advice and guidance about the operations of the Act and Edmonton Public Schools' procedures;
 - c. coordinate the disclosure process and either personally conduct or oversee, manage and coordinate the investigation of disclosures;
 - d. ensure that any individual assigned to review or investigate an alleged wrongdoing is impartial and has no potential, perceived or real conflict of interest.
 - e. be responsible for conducting screening and preliminary analysis of disclosures in accordance with the procedures;
 - f. impartially assess each report to determine whether it is a disclosure under this regulation;
 - g. conduct, or appoint an impartial investigator, to conduct the investigation;
 - h. be responsible for the tracking and reporting of investigations and corrective actions arising out of the disclosures;
 - i. ensure appropriate stakeholders are apprised of the status of the investigation;
 - j. assign responsibility for corrective actions, if any, arising from investigations;
 - k. follow up on the status of corrective actions;
 - l. advise the disclosing employee of the progress of an investigation and inform him/her of the outcome;
 - m. establish and manage a confidential records and information management system in accordance with the Division's records retention schedule;
 - n. develop a tracking system to manage disclosures and investigations;
 - o. collate and prepare statistical summaries of disclosures for the Chief Officer and the Chief Officer's Annual Report;
 - p. take all necessary steps to ensure, to the extent possible, the confidentiality of the identity of the individual who made the disclosure and the identity of the employee who is the subject of the disclosure; and
 - q. protect employees involved in a disclosure of wrongdoing from possible reprisal.
3. Supervisors shall:
- a. review annually with staff this regulation and the identity and role of the Designated Officer;
 - b. receive a disclosure of possible wrongdoing as a confidential disclosure under the Act if received from an employee and report the disclosure in writing to the Designated Officer; and
 - c. protect employees involved in a disclosure of wrongdoing from possible reprisal.
4. Employees shall:
- a. participate in investigations as required and cooperate fully with the Designated Officer or any investigators appointed by the Designated Officer;
 - b. maintain strict confidentiality of any information related to, or arising out of, a disclosure;

- c. make disclosures of wrongdoing in good faith;
- d. refrain from engaging in reprisal against an individual for:
 - making a report of wrongdoing; or
 - cooperating with an investigation of wrongdoing.

REGULATION

A. REPORTING WRONGDOING

This process does not normally apply to concerns and, or complaints addressed through other regulations and processes including, but not limited to, grievance procedures and reporting procedures for workplace violence, harassment, Code of Conduct and occupational health and safety.

1. An employee who perceives a wrongdoing has been committed or is about to be committed may seek advice from and or report the perceived wrongdoing to the Designated Officer or the Commissioner.
2. Should the disclosure be related to the Designated Officer, it may be reported to the Chief Officer or the Commissioner.
3. A disclosure may be reported directly to the Commissioner if:
 - the disclosure is believed to be a matter of imminent risk of a substantial or specific nature to the life, health or safety of individuals or to the environment, such that there is insufficient time to report to the Designated Officer;
 - the disclosure involves the Chief Officer or Designated Officer;
 - the disclosure has been made and not resolved within the specified time periods or according to procedures; or
 - the employee is not satisfied with the resolution of a completed investigation.
4. All reports of wrongdoing must be made in writing, and may be completed using the Public Disclosure Form. Reports are to be submitted to either:
 - safedisclosure@hushmail.com, an external site not subject to Division e-mail monitoring
 - Edmonton Public Schools
Centre for Education
One Kingsway Avenue
Edmonton AB T5H 4G9
ATTENTION: General Counsel
5. Reports shall be made in good faith, on a timely basis and based on reasonable grounds. Deliberately false or vexatious allegations are serious offences and will be dealt with accordingly.

B. INVESTIGATING WRONGDOING

1. All disclosures received through the processes in this regulation shall be appropriately reviewed and evaluated for possible investigation, in accordance with this regulation and the Procedures by the Designated Officer.
2. The Designated Officer may consult with the Chief Officer or the Commissioner before launching an investigation.
3. Information collected during the course of an investigation shall be kept confidential according to the limits outlined by the Act and the Procedures.

C. COMMUNICATING AND REPORTING

1. The Designated Officer shall in writing:
 - a. Within five business days of receipt of the disclosure, acknowledge receipt to the disclosing employee.
 - b. Within 10 business days of receipt of the disclosure, notify the disclosing employee of the decision as to whether an investigation is required.
 - c. Within 110 business days of receipt of the disclosure, report the findings of the investigation to the Chief Officer and the disclosing employee.
 - d. Prepare a report for the Chief Officer, that includes the following details related to the investigation of each disclosure:
 - i. date of report;
 - ii. executive summary;
 - iii. name of the person who made the disclosure of the wrongdoing;
 - iv. date the disclosure was received;
 - v. a copy of the disclosures;
 - vi. date of acknowledgement of the receipt of the disclosure;
 - vii. date on which the Chief Officer was advised;
 - viii. date, if any, of referral to the Commissioner or other agency;
 - ix. date of appointment of investigator;
 - x. date investigation was commenced and completed;
 - xi. names of all persons interviewed;
 - xii. table of documentary and other evidence;
 - xiii. time frame of investigation;
 - xiv. findings of fact with reference to sources and rationale for the findings;
 - xv. all interview notes or transcript of recording (may be a reference to a digital repository); and
 - xvi. recommendations of the Designated Officer regarding any corrective measures that EPSB should take.
2. The Chief Officer may extend the time period for up to 30 business days for investigation and the provision of a report.
3. The Chief Officer will report annually to the Commissioner, and make available to the public, the following:
 - a. number of inquiries;
 - b. number of disclosures;
 - c. number of investigations; and
 - d. recommendations made.

D. REPRISALS

1. All complaints of reprisals should be made by the affected employee directly to the Commissioner.
2. Reprisal against an employee who has disclosed a wrongdoing or who has cooperated in an investigation is grounds for disciplinary action and an offence subject to significant personal fines under the Act.

REFERENCES

Edmonton Public Schools Public Interest Disclosure Procedures
Understanding the Public Interest (Whistleblower Protection) Act Brochure
FBCA.BP - Respectful Working Environments
FBCA.AR - Respectful Working Environments

FBCB.BP - Division Staff Code of Conduct
FBCB.AR - Division Staff Code of Conduct
Public Interest Disclosure Act
Freedom of Information and Protection of Privacy Act