ADMINISTRATIVE PROCEDURE 550 PUBLIC INTEREST DISCLOSURES

These procedures support the implementation of Policy 520 Public Interest Disclosure.

Definitions

Capitalized terms in this Procedure have the meanings set out in the Policy, and the following additional terms shall have the following meanings.

- **Designated Officer**: the Superintendent and any other senior member of Personnel designated by the Superintendent from time to time, which includes, in accordance with section 4 of this Procedure, the Secretary Treasurer, Assistant Director of Human Resources, and the Chair of the Board of Education.
- **Disclosure Form**: Form 550A: Whistleblower Complaint Report Form.
- **Ombudsperson**: The Ombudsperson of British Columbia.
- **Policy**: Policy 520: Public Interest Disclosures
- **Protection Official**:
  - in respect of a health-related matter, the provincial health officer.
  - in respect of an environmental matter, the agency responsible for the Emergency Program Act.
  - in any other case, a police force in British Columbia.
- **Referral:** a referral of allegations of Wrongdoing received from the Ombudsperson or another government institution for investigation by the School District in accordance with the PIDA
- **Respondent:** a person against whom allegations of Wrongdoing or a complaint of reprisal is made.
- **School:**
  - a body of students that is organized as a unit for educational purposes under the supervision of a principal, vice principal or director of instruction.
  - the teachers and other staff members associated with the unit, and the facilities associated with the unit.
  - and includes a Provincial resource program and a distributed learning school operated by a board.
- **Supervisor:**
  - an Employee's direct management supervisor.
  - for School-based Employees, the Principal or any Vice-Principal at the School where the Employee is assigned.
- **Urgent Risk:** when a member of Personnel 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.

1. Who May Make a Disclosure

1.1. Any Employee may report Wrongdoing under this Policy if the alleged Wrongdoing occurred while the Employee was employed or engaged by the School District.

1.2. Complaints or reports received from members of the public, school trustees, or from Employees who were not employed with the School District at the time that Wrongdoing occurred or is alleged to have occurred are outside the scope of the Policy and this Procedure.

2. How to Make a Disclosure

2.1. 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:

2.1.1. that person's Supervisor.

2.1.2. the Superintendent.

2.1.3. a Designated Officer other than the Superintendent.

2.1.4. the Ombudsperson.

2.2. A Disclosure should be submitted in writing using the Disclosure Form or in other written form, and include the following information if known:

2.2.1. a description of the Wrongdoing.

2.2.2. the name of the person(s) alleged to be responsible for or to have participated in the Wrongdoing.

2.2.3. the date or expected date of the Wrongdoing.

2.2.4. if the Wrongdoing relates to an obligation under a statute or enactment, the name of that statute or enactment.

2.2.5. whether the Wrongdoing has already been reported, and if so, to whom and a description of the response received.

2.3. A Disclosure may be submitted to the School 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 a Disclosure does not contain sufficient detail to permit investigation, the School District may take no action with respect to the Disclosure. Any notices required to be given to a Discloser under this Policy or the PIDA will not be provided to an anonymous Discloser, except at the discretion of the Designated Officer and where the Disclosure has provided contact information.

2.4. A Discloser who is considering making a Disclosure may request Advice from any of their union representative or employee association representative, a lawyer, their Supervisor, a Designated Officer, or the Ombudsperson.

2.5. A Discloser should not make a Disclosure to a person if the allegations relate, in whole or in part, to Wrongdoing by that person, and any person who receives a Disclosure or Referral 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.

3. How to Make a Disclosure About Urgent Risk

3.1. The PIDA permits Employees to make public disclosures if the Employee reasonably believes that a matter poses an Urgent Risk. An Urgent Risk only arises if there is reasonable and credible evidence of an imminent risk of a substantial and specific danger to the life, health or safety of persons or to the environment.

3.2. Before making a public disclosure of an Urgent Risk the Employee must:

3.2.1. consult with the relevant Protection Official (public health officer, Emergency Management BC, or police).

3.2.2. receive and follow the direction of that Protection Official, including if the Protection Official directs the Employee not to make the public disclosure.

3.2.3. refrain from disclosing, publishing or otherwise sharing Personal Information except as necessary to address the Urgent Risk.

3.2.4. refrain from disclosing any information that is privileged or subject to a restriction on disclosure under the PIDA or any other enactment of British Columbia or Canada, including legal advice privilege, litigation privilege or another ground of common law privilege.

3.2.5. 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.

3.3. An Employee who makes a public disclosure in relation to an Urgent Risk is expected to provide timely notification to their Supervisor or the Superintendent about the public disclosure or submit a Disclosure in accordance Section 2: **How to Make a Disclosure.**

3.4. 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.

4. Referral of Disclosure to Designated Officer

4.1. Each Supervisor and any other Employee who receives a Disclosure or Referral under this Policy must promptly refer the Disclosure or Referral, including all Disclosures Forms and other materials supplied, to the appropriate Designated Officer as follows:

4.1.1. 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 Procedure to any other Designated Officer.

4.1.2. If the allegations concern alleged Wrongdoing by the Superintendent, then the Disclosure or Referral should be referred to a Designated Officer other than the Superintendent to assess whether the Disclosure falls within the scope of the PIDA or Board Policy 520. If so, then the Disclosure should be referred to the Office of the Ombudsperson.

5. Responsibilities of the Designated Officer

5.1. The Designated Officer is responsible to:

- Receive and respond to any Disclosure or Referral.
- Receive and respond to reports made by Personnel about Urgent Risks.
- If the Designated Officer reasonably believes that an Urgent Risk exists, the Designated Officer may make a report to the relevant Protection Official.
- Review allegations of Wrongdoing in a Disclosure or Referral and determine if they fall within the scope of the PIDA or Policy 520.
- Refer disclosures or allegations falling outside the scope of the PIDA or 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 the PIDA, refer the Disclosure to that institution.
- Seek clarification of the allegations of Wrongdoing from the Discloser or referring institution as needed.
- If appropriate, initiate an Investigation into allegations of Wrongdoing in accordance with Section 6: Responsibilities of Employees.
- Assess the risk of any Reprisal to the Discloser, and take appropriate action, if any, to mitigate that risk.
- Manage communications with the Discloser and Respondent.
- Notify the Discloser and the Respondent of the outcome of the Investigation in accordance with Section 7: Investigations.
- Ensure that, in accordance with Section 8: Privacy and Confidentiality, all Personal Information received by the School District related to the Disclosure, Referral, request for Advice or any Investigation is appropriately protected against such risks as unauthorized access, collection, use, disclosure, theft or loss in accordance with FIPPA and PIDA.

6. Responsibilities of Employees

6.1. All Employees are responsible to:

6.1.1. make any Disclosures in good faith and on the basis of a reasonable belief that Wrongdoing has or is expected to occur.

6.1.2. refrain from engaging in Reprisals and report all Reprisals in accordance with this Procedure and the PIDA.

6.1.3. maintain the confidentiality of Personal Information received in connection with a Disclosure, Referral, request for Advice or Investigation in accordance with the Policy, this Procedure, and the PIDA.

6.1.4. provide their reasonable cooperation with investigations by the School District or the Ombudsperson.

6.1.5. seek appropriate advice if an Employee is uncertain about whether to make a Disclosure or a public disclosure of an Urgent Risk.

6.1.6. comply with the requirements of this Procedure and the PIDA concerning Urgent Risks.

7. Investigations

7.1. Every person involved in receiving, reviewing and investigating Disclosures, Referrals or complaints of Reprisals must carry out those function in an expeditious, fair and proportionate manner as appropriate in the circumstances and as required under the PIDA.

7.2. The School District shall seek to complete all Investigations within 30 calendar days of receipt of a Disclosure or Referral or complaint of Reprisals, but the Designated Officer may shorten or extend this time period depending on the nature and complexity of the allegations.

7.3. The Designated Officer may expand the scope of any Investigation beyond the allegations set out in the Disclosure or Referral to ensure that any potential Wrongdoing discovered during an Investigation is investigated.

7.4. All Investigations shall be conducted by an internal or external investigator with sufficient qualifications and experience to carry out the Investigation.

7.5. The Designated Officer may consult with the Ombudsperson regarding a Disclosure or Referral or refer allegations of Wrongdoing in whole or in part to the Ombudsperson, provided that notice of the referral is provided to the applicable Discloser.

7.6. The Designated Officer may refuse to investigate or postpone or stop an Investigation if the Designated Officer reasonably believes that:

7.6.1. the Disclosure or Referral does not provide adequate particulars of the Wrongdoing.

7.6.2. 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 the Policy or the PIDA, or does not deal with Wrongdoing.

7.6.3. 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.

7.6.4. the Disclosure relates solely to a public policy decision.

7.6.5. the allegations are already being or have been appropriately investigated by the Ombudsperson, the School District or other appropriate authority.

7.6.6. the Investigation may compromise another investigation.

7.6.7. the PIDA otherwise requires or permits the School District to suspend or stop the Investigation.

7.7. Subject to the School District's obligations under FIPPA and Section 2.3. above, the Discloser and the Respondent(s) will be provided with a summary of the School District's findings, including:

7.7.1. notice of any finding of Wrongdoing.

7.7.2. a summary of the reasons supporting any finding of Wrongdoing.

7.7.3. any recommendations to address findings of Wrongdoing.

8. Privacy and Confidentiality

8.1. All Personal Information that the School District collects, uses or shares in connection with a Disclosure, Referral, or request for Advice, or an Investigation shall be treated as confidential and shall be used and disclosed by the School District only as described in the Policy, the Procedures and the PIDA unless otherwise permitted or required under FIPPA or other applicable laws.

8.2. Personal Information that is collected, used or shared by the School District in the course of receiving, responding to or investigating a Disclosure, a request for Advice, a Referral, or a complaint of a Reprisal shall be limited to the Personal Information that is reasonably required for these purposes.

8.3. Any person who receives information about the identity of a Discloser shall maintain the identity of the Discloser in confidence, and may only use or share that information for the purposes described in this Policy or the PIDA, except with the consent of the Discloser or as authorized or required by the PIDA or other applicable laws.

8.4. The School District shall ensure there are reasonable security measures in place to protect all Personal Information that the School District collects or uses in the course of receiving or responding to a Disclosure, a request for Advice, a Referral, or complaint of a Reprisal or conducting an Investigation, including by ensuring that such information is subject to appropriate controls to ensure that it is only shared internally on a need to know basis.

9. Reprisals

9.1. The School District will not tolerate Reprisals against Employees.

9.1.1. 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 the PIDA.

9.2. Any person who engages in any Reprisals shall be subject to disciplinary action up to and including, for an Employee, dismissal for cause.

Resources

- Policy 520: Public Interest Disclosure
- Form 550A: Whistleblower Complaint Form