

# PROCEDURES FOR DISCLOSURES OF WRONGDOINGS

## Appendix A

### **Purpose**

The Board of Governors is committed to protecting all members or complainants who expose possible wrongdoings of board members and requires that a policy and internal procedures are established and maintained so that the Protected Disclosure can be received, managed and acted upon.

All Board members should familiarize themselves with these procedures for addressing Protected Disclosures. These Procedures do not replace or modify individual rights guaranteed by law, contract or codes of professional ethics.

Members and complainants should read these procedures in conjunction with the Policy. Terms that are not otherwise defined herein shall have meaning ascribed to them in the Policy.

These procedures outline the process by which:

- a) Members or any complainant may make a disclosure of possible wrongdoing by a Board member;
- b) The Board will respond to a disclosure of possible wrongdoing;
- c) The Board will ensure protection from reprisals for making a disclosure of possible wrongdoing.

### **Designations and Roles**

#### **Board and Designated Officer**

The Board may designate a board official to the Designated Officer for the purposes of managing and investigating disclosures. If no designation is made, the Board Chair will also be the Designated Officer for the purposes of the Act.

The Board has designated the following:

- Designated Officer – Board Chair

#### **Roles and Responsibilities**

- The Board is responsible to establish and maintain an internal written procedure to manage and investigate disclosures of possible wrongdoings.
- The Designated Officer is responsible to provide at a minimum quarterly reports, or as often as necessary to the Board of all investigations undertaken, the results of the investigation and any actions required as a result of the investigation.
- In limited circumstances where the Designated Officer has or appears to have a conflict of interest in managing and investigating a disclosure of possible wrongdoing, the Vice Chair shall be responsible for managing and investigating such possible wrongdoings.
- The Board is responsible to ensure information about the Act and the procedures established are communicated to all Board members.

1. Designated Officer

- The Designated Officer is responsible to manage and investigate disclosures as defined by these procedures.
- The Designated Officer may seek advice/information from the Public Interest Commissioner regarding the management of investigations.

## Disclosure Procedures

### Making a Disclosure

It is the policy of the Board to encourage its members or any complainant, when such members or complainants reasonably believe that they have information that could show that a possible Wrongdoing has been committed or is about to be committed, or that could show that such a member or complainant has been asked to commit a possible wrongdoing, to immediately report and raise these concerns free of reprisals.

Members or complainants who are considering making a disclosure can request information from the Designated Officer or by contacting the Office of Public Interest Commissioner – Monday to Friday (8:15am – 12:00pm/1:00pm – 4:30pm) at Toll Free: 1-855-641-8659 or via email at [info@pic.alberta.ca](mailto:info@pic.alberta.ca).

Individuals who have reason to believe that a possible wrongdoing has been committed or is about to be committed, or could show that they have been asked to commit a possible wrongdoing, must immediately report those facts in writing by mail or fax as identified below:

- a) To the Designated Officer – Chair of the Board of Governors, 299 College Drive SE, Medicine Hat, Alberta, T1A 3Y6. Fax: 1-403-504-3510.
- b) If the Designated Officer is the individual alleged to have committed the wrongdoing, the disclosure should be made to the Vice Chair of the Board of Governors, Medicine Hat College Board of Governors, 299 College Drive SE, Medicine Hat, Alberta, T1A 3Y6. Fax: 1-403-504-3510.
- c) If both the Designated Officer and the Vice Chair are the individuals alleged to have committed the wrongdoing or there is or appears to be a conflict of interest in managing and investigating a possible wrongdoing, the disclosure should be made directly to the Public Interest Commissioner, 801-6 Avenue SW, Suite 2560, Calgary, Alberta T2P 3W2. [info@pic.alberta.ca](mailto:info@pic.alberta.ca).

All disclosures should contain the following content:

- a) A description including the activity or activities involved in the alleged wrongdoing.
- b) The name of the individual or individuals alleged to have either committed the possible wrongdoing, or about to commit the possible wrongdoing.
- c) The date of the possible wrongdoing.
- d) An explanation of any perceived risk(s) to the Board or the college.
- e) An explanation of any perceived financial interests or rewards.
- f) An explanation of any perceived or suspected violations of relevant laws.

- g) Any other information that may be helpful to the Designated Officer or Board Chair as applicable, to properly understand and evaluate the allegation of possible wrongdoing.

Anonymous disclosures should clearly be indicated in your written communication of the disclosure. However, it should be noted that anonymous reports often do not contain the required detail with respect to an allegation in order to enable a full and thorough investigation. Given the anonymity of the report, the Designated Officer and the investigator will be prevented from seeking clarification or further information to rectify any deficiencies in the disclosure in order to ensure a fulsome review and investigation. Additionally, when a complainant who makes an anonymous disclosure cannot be advised of whether an investigation will be conducted, or the progress or result of an investigation if conducted.

Maintaining confidentiality is paramount to the success of the process. Accordingly, the risk of confidentiality will be strictly managed from the outset of a disclosure being received through to the end of the investigation and report release. In order to enhance confidentiality, as few people as are required will handle the disclosures. Members or complainants must not share information or evidence regarding disclosure of wrongdoings with fellow members or employees who do not need to know such information and who are not authorized to address disclosures.

All participants in an investigation shall keep confidential:

- The identity of individuals involved in the disclosure process;
- The identity of individuals alleged to have committed wrongdoings;
- The identity of witnesses;
- The information collected in relation to a disclosure; and
- The details and result of the investigation.

However, such confidentiality may not be maintained for matters which pose an imminent risk of substantial and specific danger to life, health or safety of individuals, or to the environment.

### **Reporting a Disclosure to Commissioner**

A disclosure of wrongdoing may be made by an employee or by another person directly to the Commissioner in the following circumstances:

- a) If the member or complainant has made a disclosure in accordance with the procedures and an investigation in respect of the disclosure has not been completed in accordance with the procedures;
- b) If the member or complainant has made a disclosure in accordance with the procedures and the matter has not been resolved within the time periods established under those procedures or the Commissioner has determined that those procedures do not meet the criteria set out in the Act;
- c) If the member or complainant has made a disclosure in accordance with the procedure and an investigation under the procedures has been completed, a final decision has been issued in respect of the disclosure and the member or complainant is dissatisfied with the decision;
- d) If the subject matter of the disclosure involves the Board Chair and Vice Chair;

- e) If the member or complainant reasonably believes that a matter constitutes an imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the environment, such that there is insufficient time to make a disclosure under the procedures;
- f) If the member or complainant has made a disclosure in accordance with the procedure and is unable to complete the procedures because a reprisal has been taken or directed against the member or complainant; or
- g) If the member or complainant reasonably believes that a reprisal is likely to be taken or directed against them if the disclosure is made in accordance with the procedures.

### **Receiving and Reviewing Disclosures**

The Designated Officer or Vice Chair, as applicable, upon receipt of a Protected Disclosure will respond in writing within no more than five (5) business days to acknowledge receipt of the Protected Disclosure. The officer responsible for managing the complaint will record the details of the Protected Disclosure in writing which will include the following:

- i. The date and time the Protected Disclosure was received.
- ii. The name of the member or the complainant making the Protected Disclosure (unless the person has requested anonymity).
- iii. The name(s) of the subject of the Protected Disclosure.
- iv. Full details of the Protected Disclosure including the activity or activities involved in the alleged wrongdoing.

The Designated Officer, or Vice Chair as applicable, will review the following with the member or a complainant making the Protected Disclosure:

- i. These procedures;
- ii. Confidentiality protections;
- iii. The record keeping process;
- iv. The commitment of the Board to protect the member or complainant from reprisal.

Normally within no more than ten (10) business days following the receipt of the Protected Disclosure, the Designated Officer or Vice Chair as applicable, will determine if:

- i. the Protected Disclosure should be referred to an alternative, more appropriate process, or
- ii. the Protected Disclosure should be referred to the Public Interest Commissioner appointed under section 38 of the Public Interest Disclosure (*Whistleblower Protection Act*) because the subject matter of the Protected Disclosure constitutes an imminent risk of a substantial or specific danger to the life, health or safety of individuals, or to the environment; or
- iii. the Protected Disclosure should be dismissed for being frivolous or vexatious in nature and made in bad faith; or
- iv. the Protected Disclosure does not have sufficient information to undertake an investigation;
- v. the Protected Disclosure should be dismissed for another valid reason(s); and
- vi. The Designated Officer or Vice Chair, as applicable, will inform the member of the complainant who made the Protected Disclosure of the decision and what the next steps are, if any.

For situations where a member or complainant feels uncomfortable communicating with the Designated Officer or Vice Chair, Medicine Hat College (MHC) has engaged a third party hotline reporting service called "ConfidenceLine". ConfidenceLine can be reached via telephone at 1-800-661-9675 or via the MHC website at [www.mhc.ab.ca/employees](http://www.mhc.ab.ca/employees).

Any disclosure received through the ConfidenceLine will be forwarded to the Designated Officer or Vice Chair as applicable for response.

## **Investigations**

### **Appointing an Investigator**

The Designated Officer or Vice Chair, as applicable, with appropriate consultation, will appoint an investigator (the "investigator") to investigate the allegation pursuant to the Protected Disclosure. The investigator may be a person who is internal to the Board or an external and independent third party as circumstances require.

The objectives of an investigation will be:

- i. to collate information relating to the allegation as quickly as possible. This may involve steps to protect or preserve documents, materials and equipment;
- ii. to consider the information collected and to draw conclusions objectively and impartially;
- iii. to maintain procedural fairness and observe the principles of natural justice in the treatment of witnesses and the member or complainant who submitted the Protected Disclosure;
- iv. to make recommendations arising from the conclusions drawn concerning remedial or other appropriate action.

### **Terms of Reference**

Before commencing an investigation, the Designated Officer or Vice Chair, as applicable, will draw up a terms of reference.

The Terms of Reference will:

- i. set a date (that is no more than 110 business days from the date on which the alleged disclosure of wrongdoing was received) by which the investigation report is to be concluded; and
- ii. describe the resources available to the investigator to complete the investigation within the allotted time.

In exceptional circumstances, the Designated Officer or Vice Chair, as applicable, may approve, if reasonable, an extension of time requested by the investigator to complete the investigation and submit the report. Notwithstanding the foregoing, no extension of time will be granted that is more than 140 business days from the date on which the disclosure of wrongdoing was received.

The Terms of Reference will require the investigator to make regular reports to the Designated Officer or Vice Chair who in turn will keep the Board apprised of the general progress of the investigation.

The investigator will prepare an investigation plan for approval by the Designated Officer or Vice Chair as applicable. The plan will list the issues to be substantiated and describe the avenue of inquiry.

The plan will address the following questions:

- i. what is being alleged?
- ii. what are the possible findings or offenses?
- iii. what are the facts in issue?
- iv. how is the inquiry to be conducted?
- v. what resources are required?

If the member or complainant who submitted the Protected Disclosure can be contacted at this point of the investigation, the member or complainant shall be:

- i. notified by the investigator that he or she has been appointed to conduct the investigation;
- ii. asked to clarify any matters pertaining to their report of Protected Disclosure;
- iii. asked to provide any additional material they may have.

### **Principles of Natural Justice and Procedural Fairness**

The investigator will follow at all times during the course of the investigation the principles of natural justice and procedural fairness. The principles of natural justice and procedural fairness ensure that a fair decision is reached by an objective decision-maker. Maintaining procedural fairness protects the rights of individuals and enhances confidence in the Board's processes.

The Board will show consideration for the following in ensuring procedural fairness:

- i. the person who is the subject of the Protected Disclosure is entitled to know the allegations made against them and must be given the right to respond. However, this does not mean the person must be advised of the allegation as soon as the Protected Disclosure is received or the investigation has commenced nor will the identity of the discloser be disclosed;
- ii. if the investigator is contemplating making a report adverse to the interest of any person, that person should be given the opportunity to put forward material that may influence the outcome of the report and that person's defence should be fairly set out in the report;
- iii. all relevant parties to a matter should be heard and all submissions should be considered;
- iv. a decision should not be made until all reasonable inquiries have been made;
- v. the investigator or any decision maker must not have a personal or direct interest in the matter being investigated;
- vi. all proceedings must be carried out fairly and without bias. Care should be taken to exclude perceived bias from the process; and
- vii. the investigator must be impartial in assessing the credibility of the individual who submitted the Protected Disclosure and any witnesses thereto. Where appropriate, conclusions as to the credibility should be included in the report.

### **Conduct of Investigation**

The investigator will make notes of all discussions, phone calls and interviews with witnesses. Witnesses may have legal or other representation or support during an interview at the discretion of the investigator.

When the investigation is complete, the investigator will submit their report to the Designated Officer or Vice Chair as applicable.

The report will include but not limited to:

- i. the allegation;
- ii. an account of all relevant information received and, if the investigator has rejected evidence as being unreliable, the reasons for this conclusion;
- iii. the conclusions reached and the basis for them; and
- iv. any recommendations arising from the conclusions.

The report will be accompanied by all records created or received by the investigator in the course of the investigation.

The report will not include information that leads or could lead to the identification of the individual who submitted the Protected Disclosure.

### **Outcome of Investigation**

If the Designated Officer or Vice Chair is satisfied that the report brings the investigation to an end, they will provide the Board with a copy of the report. If the investigator has found evidence of wrongdoing, the report will include recommendations for actions should be taken to prevent the conduct from continuing or occurring in the future as well as action that should be taken to remedy any harm or loss arising from the conduct.

Outcomes will be fair and reasonable for all persons involved. Following the complete investigation of a disclosure, outcomes which may result include:

- a) an apology;
- b) mediation;
- c) an admission of fault;
- d) a change in decision;
- e) a change to policy, procedure or practice;
- f) a correction of misleading records;
- g) financial compensation including a refund of any fees;
- h) the waiving of a debt, the remission of a penalty;
- i) protection to the member of complainant making the disclosure;
- j) disciplinary action;
- k) referral of a matter to an external agency for further investigation or prosecution.

The Board Chair shall provide quarterly, or as often as necessary, reports to the Board of all investigations undertaken, the results of the investigation and actions that are required to be taken as a result of the investigations.

All documents related to the reporting, investigation and enforcement of the investigation shall be kept in accordance with the Board's policy and applicable law.

**Protection from Reprisals**

Members or complainants who report in good faith, an alleged or actual wrongdoing, have the right to be protected from reprisal. Reprisal includes, but is not necessary limited to the following retaliatory actions, or threat of the following retaliatory actions:

- a) termination of association with the Board;
- b) a dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job;
- c) change of job location, reduction in wages, changes in hours of work or reprimand;
- d) any actions or measures that adversely affects employment or working conditions;
- e) intimidation or coercion; and
- f) harassment or discrimination.

The Board will not condone reprisal against:

- a) any individual who in good faith and without malice or desire for personal benefit, discloses wrongdoing or alleged wrongdoing in accordance with this policy and procedure; or
- b) any individual who in good faith and without malice or desire for personal benefit participates as a witness in an investigation or wrongdoing or alleged wrongdoing in accordance with this policy and procedure.

All complaints of reprisals will be managed and investigated by the Office of the Public Interest Commissioner. Individuals who believe they have been subject to reprisal should access the Public Interest Commissioners website ([www.yourvoiceprotected.ca](http://www.yourvoiceprotected.ca)) to obtain an appropriate form, to make a secure submission or for assistance. Individuals may contact an independent investigator for assistant at: Toll-free province-wide: 1-855-641-8659 or via email at [info@pic.alberta.ca](mailto:info@pic.alberta.ca)

**Protecting the Member or Complainant making the Protected Disclosure**

The Designated Officer or the Vice Chair, as applicable, may appoint a person to act as an advocate for the member or complainant who made the Protected Disclosure to manage their welfare.

The advocate will:

- i. examine the immediate welfare and protection needs of the member or complainant;
- ii. listen and respond to any concerns of reprisal for making a Protected Disclosure;
- iii. act as liaison and guide pertaining to the process involved following a Protected disclosure; and
- iv. keep a record of all aspects of the case management of the member or complainant.



