



## Medicine Hat College Procedure DISCLOSURE OF WRONGDOINGS

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Procedure #:	PR-HR-03-01
Procedure Authority:	Director, Human Resources
Executive Sponsor:	Vice-President, Administration and Finance
Approved by:	Vice-President, Administration and Finance
Effective Date:	December 6, 2018

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### 1. PURPOSE

Medicine Hat College (MHC) is committed to protecting all employees who expose possible wrongdoings within the College and requires the Chief Officer to ensure that a policy and internal procedures are established and maintained so that the protected disclosure can be received, managed and acted upon.

Acts that are outside the scope of the Public Interest Disclosure (Whistleblower Protection) policy will be resolved within existing MHC policies or practices.

These procedures do not replace or modify individual rights guaranteed by law, contract or codes of professional ethics. Nothing in these procedures limits or amends the provisions of collective agreements entered into by the College.

These procedures outline the process by which

- employees may make a disclosure of possible wrongdoing,
- the College will respond to a disclosure of possible wrongdoing, and
- the College will ensure protection from reprisals for making a disclosure of possible wrongdoing.

### 2. SUPPORTING

- HR-03 Public Interest Disclosure (Whistleblower Protection) (the **Policy**)

### 3. DEFINITIONS

All terms used throughout these procedures that are not otherwise defined herein, shall have the meaning ascribed to as such under the Policy.

- **Designated Officials:** Chief Officer, Designated Officers and Chair of the Board of Governors.
- **Good Faith Disclosure:** a submission of information that is based on reasonable belief and is not malicious, frivolous or vexatious, to the appropriate college authority.

- **Procedural Fairness/Natural Justice:** requires that a person receives a fair and unbiased hearing before a decision is made that will impact on their rights or interests. What constitutes a fair and unbiased hearing will vary from case to case according to circumstances.
- **Supervisor:** any employee delegated supervisory responsibility over other members of the MHC community or worksite. This includes but is not limited to supervisor, manager, director, chair, coordinator, associate dean, dean, associate vice-president, vice-president and president.

#### 4. PROCEDURE

##### 4.1 Designations - Chief Officer and Designated Officer

The President of MHC is the Chief Officer.

The Chief Officer of MHC may designate a senior official to the Designated Officer position for the purposes of managing and investigating disclosures. If no designation is made, the Chief Officer will also be the Designated Officer for the purposes of the Act.

The President of MHC as Chief Officer, has designated the following:

- Designated Officer – Vice-President, Academic, and
- Designated Officer – Vice-President, Administration and Finance.

##### 4.2 Requesting Information

Employees who are considering making a disclosure can request information from their Designated Officer(s) or a supervisor or by contacting the Office of Public Interest Commissioner at 1-855-641-8659 or via email at [info@pic.alberta.ca](mailto:info@pic.alberta.ca).

##### 4.3 Disclosure Procedure

MHC employees have a responsibility to report any possible wrongdoings where there is reasonable belief 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 an employee has been asked to commit a possible wrongdoing, to immediately report and raise these concerns free of reprisals.

##### 4.3.1 Making a Disclosure to the Designated Officer

Report the allegations of wrongdoing in writing to the Designated Officer in a sealed envelope labeled: "To be opened by (INSERT NAME OF DESIGNATED OFFICER) only" at the following addresses:

Vice-President, Academic  
Medicine Hat College  
299 College Drive SE  
Medicine Hat, AB T1A 3Y6

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Vice-President, Administration and Finance  
Medicine Hat College  
299 College Drive SE  
Medicine Hat, AB T1A 3Y6

If the Designated Officers are the individuals alleged to have committed the wrongdoing, the disclosure should be made to the Chief Officer in sealed envelope labeled: "To be opened by the CHIEF OFFICER only" at the following address:

President, Chief Officer  
Medicine Hat College  
299 College Drive SE  
Medicine Hat, AB T1A 3Y6

If the Chief Officer is the individual alleged to have committed the wrongdoing, the disclosure should be made to the Chair of the Board of Governors, in a sealed envelope labeled: "To be opened by the Chair of the Board of Governors only" at the following address:

Chair of MHC Board of Governors  
299 College Drive SE  
Medicine Hat, AB, T1A 3Y6

Where the Chair of the Board of Governors, has or appears to have a conflict of interest in managing and investigating disclosures of possible wrongdoings against the Chief Officer, the Chair of the Finance and Audit Committee shall be responsible for managing and investigating such possible wrongdoings. The Chair of the Finance and Audit Committee will follow the same procedures as outlined.

For protected disclosures involving Board Members, refer to GP-9 Board Public Interest Disclosure (Whistleblower Protection) Policy and GP-9 Attachment A – (Board Procedure for Disclosure of Wrongdoings).

**4.3.2 Making a Disclosure through ConfidenceLine**

For situations where an employee feels uncomfortable communicating with the Designated Officer(s) or alternates, 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, Chief Officer or Chair of the Board of Governors as applicable for response.

### **4.3.3 Making a Disclosure Directly to the Commissioner**

A disclosure of possible wrongdoing may be made by an employee directly to the Commissioner by using the on-line web-form available at [www.yourvoiceprotected.ca](http://www.yourvoiceprotected.ca) or by contacting the office of the Public Commissioner at 1-855-641-8659.

## **4.4 Disclosure Requirements**

All disclosures must be in writing and include the following

- (a) a description including the activity or activities involved in the possible 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) any other information that may be helpful to the applicable Designated Official, to properly understand and evaluate the allegation of possible wrongdoing;
- (e) whether a disclosure in respect of a wrongdoing has been made under Section 5, to the Public Interest Commissioner and whether a response has been received, and if so, a copy of the response; and
- (f) any additional information the Designated Official or Commissioner may reasonably require in order to investigate the matters set out in the disclosure.

Anonymous disclosures should be clearly indicated in the written communication of the disclosure. Anonymous reports often do not contain the required detail with respect to an allegation and a full and thorough investigation may not be possible.

Given the anonymity of the report, the Designated Official and the investigator may 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, an employee 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.

## **4.5 Receiving and Reviewing Disclosures**

The protected disclosure will be subject to an initial review by the applicable Designated Official, to determine if the nature of the complaint falls under the Public Interest Disclosure (Whistleblower Protection) Policy and Procedure, or if it should be referred to an alternative, more appropriate process.

If the disclosure is accepted as meeting the definition of a possible wrongdoing, the applicable Designated Official, 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

- (a) the date and time the protected disclosure was received;
- (b) the name of the employee making the protected disclosure (unless the disclosure has been reported anonymously);
- (c) the name(s) of the subject(s) of the protected disclosure; and
- (d) full details of the protected disclosure including the activity or activities involved in the alleged wrongdoing.

Normally within no more than ten (10) business days following the receipt of the protected disclosure, the applicable Designated Official, will determine if

- (a) the protected disclosure should be referred to the Public Interest Commissioner appointed under section 30 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;
- (b) the protected disclosure should be dismissed for being frivolous or vexatious in nature and made in bad faith;
- (c) the protected disclosure does not have sufficient information to undertake an investigation;
- (d) the protected disclosure should be dismissed for another valid reason(s);  
or
- (e) the protected disclosure will be proceed to investigation.

The Designated Official, will review the following with the employee making the protected disclosure:

- (a) these procedures,
- (b) confidentiality protections,
- (c) the record keeping process, and
- (d) the commitment of the College to protect the employee from reprisal.

#### **4.6 Protecting the Employee Making the Protected Disclosure**

The applicable Designated Official may appoint a person to act as an advocate for the employee who made the protected disclosure to manage their welfare.

The advocate may

- (a) examine the immediate welfare and protection needs of the employee, seek to foster a supportive work environment;
- (b) listen and respond to any concerns of reprisal for making a protected disclosure;
- (c) act as liaison and guide pertaining to the process involved following a protected disclosure; and
- (d) keep a record of all aspects of the case management of the employee.

#### **4.7 Disclosures with Imminent Risk**

If the Designated Official during the course of an existing investigation, determines there is imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the environment, the Designated Official will report these matters to the appropriate agency in accordance with Section 30 of the *Act*.

### **5. Investigations**

#### **5.1 Appointing an Investigator**

The applicable Designated Official, with appropriate consultation, will appoint an investigator (the “investigator”) to investigate the allegation pursuant to the protected disclosure. The investigator may be a Designated Official, a person who is internal to the College or an external and independent third party as circumstances require.

## 5.2 Investigation Scope

**5.2.1** Before commencing an investigation, the investigator will determine the scope of the investigation including

- (a) What is being alleged?
- (b) What are the possible findings or offenses?
- (c) What are the facts in issue?
- (d) How is the inquiry to be conducted?
- (e) What resources are required?
- (f) If a single investigation should be conducted where multiple disclosures are made on the same matter.

**5.2.2** The Act sets out the following maximum allowable timelines:

- (a) maximum five (5) business days to acknowledge receipt of a disclosure of wrongdoing to the employee making the disclosure;
- (b) maximum ten (10) business days from the date the disclosure was received to determine whether an investigation into a disclosure and to communicate that decision to the employee making the disclosure;
- (c) maximum 110 business days from the date the disclosure was made to investigate and submit the written investigation report to the Chief Officer; and
- (d) a maximum of 30 business days can be approved by the Chief Officer to extend a time limit for the management of disclosures. Further extensions can only be granted by the Commissioner.

## 5.3 Conducting the Investigation

The investigator will meet with the complainant, respondent and witnesses to collect relevant information related to the scope of the investigation. The investigator will make notes of all discussions, phone calls and interviews with witnesses. Witnesses may have 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 applicable Designated Official.

The report will include but is 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; and
- iii. the conclusions reached and the basis for them.

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.

All documents related to the reporting, investigation and enforcement of this policy and procedure, as a result of a possible wrongdoing, shall be kept in accordance with MHC's record retention policy and applicable law.

### **5.3.1 Natural Justice and Procedural Fairness**

At all times during the course of the investigation, the investigator will follow the principles of natural justice and procedural fairness.

- (a) 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, the identity of the complainant will not be disclosed. 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.
- (b) All relevant parties to a matter should be heard and all submissions should be considered.
- (c) A decision should not be made until all reasonable inquiries have been made.

### **5.3.2 Protecting Confidentiality**

Only those necessary will be involved with handling disclosures in order to maintain confidentiality. 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.

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.

### **5.3.3 Another Wrongdoing or Offence is Determined During the Investigation**

If during the course of the existing investigation, it is determined that another wrongdoing or offence has been alleged, the investigator should disclose the findings to the Designated Officer who will determine one of the following

- Assess the alleged wrongdoing to determine if it falls within existing investigation scope and then broaden the scope to include new finding.
- Assess the alleged wrongdoing to determine if it falls outside the scope of the existing investigation and determine: if a separate investigation of a wrongdoing is required or if it falls under the scope of another policy.
- Assess the alleged wrongdoing to determine if a possible offence has been committed under a statute or regulation which must be reported to a law enforcement agency and to the Minister of Justice and Solicitor General as soon as reasonably practicable. The investigation into the matter shall be suspended until it has been finally disposed of by a law enforcement agency, or the Minister of Justice and the Solicitor General.

#### **5.4 Outcome of Investigation**

The investigator will provide a report to the applicable Designated Official, outlining the process and facts of the investigation and if the allegations of wrongdoing are substantiated or unsubstantiated, based on the balance of probabilities (being more likely than not). If the allegations are substantiated the applicable Designated Official will determine the appropriate action and/or sanction.

Possible actions and/or sanctions include but are not limited to

- (a) a change in decision,
- (b) a change to policy, procedure or practice,
- (c) a correction of misleading records,
- (d) financial compensation,
- (e) the waiving of a debt, the remission of a penalty,
- (f) disciplinary action up to and including termination, or
- (g) referral of a matter to an external agency for further investigation or prosecution,

#### **5.5 Protection from Reprisals**

Employees are protected from reprisals when they have in good faith, sought advice about making a disclosure, cooperated in an investigation under the Act, declined to participate in a wrongdoing or done anything in accordance with the Act. Reprisals are defined as

- (a) a dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job, change of job location, reduction in wages, changes in hours of work or reprimand;
- (b) any actions or measures that adversely affects employment or working conditions; or
- (c) a threat to take any aforementioned reprisals.

All complaints of reprisal will be managed and investigated by the Office of the Public Interest Commissioner. Employees 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. Employees may contact an independent investigator for assistance at: 1-855-641-8659 or via email at [info@pic.alberta.ca](mailto:info@pic.alberta.ca)

#### **6. Annual Reporting**

The Chief Officer must prepare a report annually on all disclosures made or referred to the Designated Officer, to the MHC Board of Governors. The report must include the following information and be publically available in the College Annual Report:

- The number of disclosures received or referred to the Designated Officer.
- The number of disclosures acted on.
- The number of disclosures not acted on.
- The number of investigations commenced.
- In cases where wrongdoing is found, a description of the wrongdoing and any recommendations or corrective measures taken, or the reasons why no corrective measures were taken.



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Chief Officers are restricted from publically identifying, in their annual report, an employee who sought advice, made a disclosure, or made a complaint of reprisal and from disclosing individually identifying health information.

***ORIGINAL COPY SIGNED***

Carla Bennett  
Interim Vice-President, Administration and Finance

Date: December 6, 2018

**DOCUMENT HISTORY**

August 2016	Revised Procedure approved
December 2018	Revised Procedure approved