

ADMINISTRATIVE PROCEDURES FOR DEALING WITH DISCLOSURES UNDER PIDA (WHISTLEBLOWER POLICY)

It is the responsibility of all members of the Pembina Trails School Division school community (employee, student, volunteer, parent, caregiver and trustee, as well as external organizations and the general public) to build an environment of trust and mutual respect and to report suspicions of wrongdoing.

1.0 ELEMENTS OF WHISTLEBLOWER (PIDA) ACT

- i. The Public Interest Disclosure (Whistleblower Protection) Act (PIDA) facilitates the disclosure and investigation of significant and serious wrongdoing in, or relating to, public bodies and protects employees who make disclosures from reprisal.
- ii. The Manitoba government is a public body under PIDA and is responsible for establishing and maintaining procedures in accordance with sections 5(1) and 5(2) of PIDA. This document serves to meet those requirements.
- iii. Matters that do not relate to wrongdoings defined by PIDA will continue to be managed in accordance with other internal operational policies and procedures.

2.0 WRONGDOING

Wrongdoing, under PIDA, is defined as:

- a) an act or omission constituting an offence under an Act of the Legislature or the Parliament of Canada, or a regulation made under an Act;
- b) an act or omission that creates a substantial danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of an employee;
- c) gross mismanagement, including of public funds or a public asset;
- d) knowingly directing or counselling a person to commit a wrongdoing described in clauses (a) to (c).

3.0 REPORTING A WRONGDOING

An employee who is considering making a disclosure, may request advice from their designated officer (Superintendent/CEO), or the Manitoba Ombudsman. Employees are protected from reprisal under

Accomplish Anything

Adopted	Reviewed	Revised	Page
BD20190411.1005			1 of 6

PIDA when seeking advice. The designated officer or the Manitoba Ombudsman may require the request to be in writing. Requesting advice in writing is encouraged.

- 3.1 An employee can make a disclosure of wrongdoing to their supervisor, designated officer (Superintendent/CEO) or the Manitoba Ombudsman. Employees are encouraged to make any disclosures as soon as they become aware of potential wrongdoing, as the quality of evidence and the ability to make corrective measures may decrease with time.
- 3.2 The disclosure must be in writing and provide the following information (if known):
 - a. a description of the wrongdoing;
 - b. the names of the person(s) alleged to have committed or about to commit a wrongdoing;
 - c. the date of the wrongdoing;
 - d. if the matter has already been raised and the response received.
- 3.3 Employees may report the wrongdoing to their supervisor or designated officer (Superintendent/CEO) using the prescribed Whistleblower Disclosure Form (See Exhibit – GBKA-E-1), or by other means, as long as the disclosure is in writing. Employees should clearly indicate they are making a disclosure under PIDA. Reports to the Manitoba Ombudsman must be submitted using the prescribed form on Manitoba Ombudsman’s website or by other means, as long as the disclosure is in writing. The Manitoba Ombudsman may take any steps he or she considers appropriate to help resolve the matter within the public body, including referring the matter to a designated officer. Anonymous disclosure may make the disclosure more difficult to investigate or substantiate, however anonymous disclosures will be acted on, whenever possible.
- 3.4 Under subsection 14(1) of PIDA, an employee may make a disclosure to the public where the subject matter constitutes an imminent risk of a substantial or specific danger to the life, health or safety of individuals, or to the environment. This public disclosure must first be made to the appropriate law enforcement or health agency. Immediately after this type of disclosure the employee/individual must also make a disclosure about the matter to their supervisor or designated officer (Superintendent/CEO). The designated officer (Superintendent/CEO) will then notify the Chair of the Board that a public disclosure has been made.
- 3.5 Where a member of senior staff or a trustee is suspected of wrongdoing, the individual or employee may notify the Superintendent/CEO.
- 3.6 Where the Superintendent/CEO is suspected of wrongdoing, the individual or employee may notify the Chair of the Board.
- 3.7 In making a report, an individual or employee must be acting in good faith with reasonable grounds for believing that there is a breach of board policy or applicable laws.

Accomplish Anything

Adopted	Reviewed	Revised	Page
BD20190411.1005			2 of 6

- 3.8 An individual or employee who makes an unsubstantiated report, which is knowingly false or made with vexatious or malicious intent, will be subject to discipline, up to and including termination of employment or vendor/contractor services or prosecution under applicable laws.
- 3.9 PIDA protects employees/individuals from reprisal who have, in good faith requested advice about making a disclosure, made a disclosure or who have cooperated in an investigation under PIDA. An employee may not be subject to discipline, termination, demotion, threat or adverse effect of his/her working conditions under PIDA.

4.0 INVESTIGATION OF SUSPICIONS OR ALLEGATIONS OF WRONGDOING

The process for addressing and resolving a reporting of suspected wrongdoing must be neutral, appropriately independent, transparent, fair and timely.

- 4.1 The supervisor must acknowledge receipt of the disclosure made by the employee/individual within five (5) business days. The supervisor must determine how the disclosing employee wishes to receive communication and respect the wishes of the employee/individual.
- 4.2 The supervisor must advise the disclosing employee that a designated officer (Superintendent/CEO) will undertake a review of the allegation. The supervisor must promptly refer the matter to the designated officer. The designated officer will determine if the allegation warrants an investigation based on the definition of wrongdoing. If the subject relates to a matter under the supervisor’s responsibilities, the supervisor must discuss with the designated officer whether any action is required by the supervisor.
- 4.3 Relevant verbal communication should be documented and stored in a confidential manner.
- 4.4 The supervisor must advise the disclosing employee that the identity of the persons involved in the disclosure process, including witnesses and persons alleged to be responsible for wrongdoing, must be confidential to the fullest extent possible.
- 4.5 The supervisor must arrange with the designated officer how the disclosing information will be forwarded in a secure and confidential manner. The supervisor must not keep any information including convenience copies, related to the disclosure.
- 4.6 If the subject matter of the disclosures involves the designated officer (Superintendent/CEO), the supervisor must forward the relevant information to the Chair of the Board. The supervisor must advise the disclosing employee that a review of the disclosure will be undertaken by or under the direction of the Chair of the Board.
- 4.7 Supervisors should direct any questions about PIDA or their responsibilities, to the Superintendent/CEO or the Manitoba Ombudsman and not to human resources.

Accomplish Anything

Adopted	Reviewed	Revised	Page
BD20190411.1005			3 of 6

5.0 ASSESSMENT OF DISCLOSURES BY THE DESIGNATED OFFICER (SUPERINTENDENT/CEO)

- 5.1 A designated officer (Superintendent/CEO) who receives a disclosure from an employee or from a supervisor must assess the disclosure and take the appropriate action. Disclosures containing allegations of serious, imminent danger or risk must be acted upon immediately in accordance with section 14(1) of PIDA. (See section 3.4)
- 5.2 The designated officer (Superintendent/CEO) must acknowledge receipt of the disclosure made by the employee within five (5) business days. The designated officer must determine how the disclosing employee wishes to receive communication and respect the wishes of the employee.
- 5.3 Relevant verbal communication should be documented and stored in a confidential manner.
- 5.4 The designated officer (Superintendent/CEO) must determine whether a disclosure pertains to the public body of the employee who made the disclosure. If the designated officer (Superintendent/CEO) determines that the disclosure relates to another public body, the designated officer (Superintendent/CEO) must refer the matter to the designated officer of that public body.
- 5.5 Within four (4) weeks, the designated officer (Superintendent/CEO) must decide if an investigation is required and notify the employee who made the disclosure of the decision and rationale.
- 5.6 The designated officer (Superintendent/CEO) may refer a disclosure of wrongdoing to an alternate authority, including the police or the Manitoba Ombudsman.
- 5.7 The designated officer (Superintendent/CEO), during a review or investigation may become aware of a situation that is not a wrongdoing under PIDA, but which may require attention in another way. In this situation the designated officer (Superintendent/CEO) is responsible to take the appropriate action to ensure the matter is addressed.

6.0 INVESTIGATING DISCLOSURES OF WRONGDOING

- 6.1 The purpose of an investigation into a disclosure of wrongdoing is to bring the wrongdoing to the attention of the appropriate public body and to recommend corrective measures. This investigation is to be conducted as informally and quickly as possible.
- 6.2 The designated officer (Superintendent/CEO) may decide NOT to investigate a disclosure, or may cease an investigation, if he or she is of the opinion that:
 - a. the subject matter of the disclosure could be more appropriately be dealt with, initially or completely, under another Act, policy or collective agreement

Accomplish Anything

Adopted	Reviewed	Revised	Page
BD20190411.1005			4 of 6

- b. the disclosure relates to a matter that results from a decision-making process on a public policy or operational issue
 - c. the disclosure is frivolous, vexatious, or has not been made in good faith
 - d. so much time has elapsed between the date, when the subject matter of the disclosure arose and the date when the disclosure was made that investigating it would not serve a useful purpose
 - e. the disclosure does not provide adequate particulars about the wrongdoing as required by section 12 of PIDA
 - f. if there is another valid reason for not investigating the disclosure.
- 6.3 A decision not to investigate and the rationale must be communicated to the person who made the disclosure.
- 6.4 The designated officer (Superintendent/CEO) will notify the Chair of the Board prior to initiating an investigation, ensuring any information protects all identities and maintains confidentiality. The designated officer (Superintendent/CEO) may consult with the Manitoba Ombudsman and any other person considered necessary for the purposes of the investigation including arranging for legal advice.
- 6.5 The designated officer (Superintendent/CEO) may require an employee to provide information or record(s) and give written or oral replies to questions, for the purpose of the investigation.
- 6.6 If during an investigation the designated officer (Superintendent/CEO) has reason to believe that another wrongdoing has been committed or may be committed, the designated officer (Superintendent/CEO) may investigate the wrongdoing.
- 6.7 If more than one disclosure of wrongdoing is received by the designated officer (Superintendent/CEO) with respect to the same matter, a single investigation may be conducted rather than another separate investigation.
- 6.8 The designated officer (Superintendent/CEO) must conclude an investigation within a suitable timeframe that is consistent with procedural fairness and natural justice.
- 6.9 Procedural fairness and natural justice principles must be upheld at all times. The disclosing employee, the alleged wrongdoer and the Board of Trustees must be advised of the outcomes within the same timeframe. A balance must be struck between managing timeframes and procedural fairness when conducting an investigation.
- 6.10 If a timeframe is extended, the designated officer (Superintendent/CEO) will maintain ongoing communication with the disclosing employee regarding the status of the investigation.

Adopted	Reviewed	Revised	Page
BD20190411.1005			5 of 6

- 6.11 At the conclusion of an investigation, the designated officer (Superintendent/CEO) must prepare a report outlining the allegations investigated, whether the investigation found wrongdoing and recommendations for corrective measures. The Board of Trustees must be provided with a copy of the report.
- 6.12 The designated officer (Superintendent/CEO) must inform the employee who made the disclosure, the results of the investigation. The designated officer (Superintendent/CEO) may do so in a manner and at a time considered appropriate. The designated officer (Superintendent/CEO) must provide as much information as possible while ensuring confidentiality.
- 6.13 There may be situations where an individual's identity will need to be disclosed to test the credibility of allegations. Disclosing the identities of employees, witnesses, or alleged wrongdoer(s) should only occur when there is no other way to test the allegations. The individuals involved must be advised in advance if this becomes necessary. The focus shall remain on detection and remedy of wrongdoing and not on the identity of the discloser or the alleged wrongdoer(s).

7.0 ANNUAL REPORTING REQUIREMENTS

- 7.1 The Superintendent/CEO must prepare, on an annual basis, a report on any disclosures of wrongdoing that were made to a supervisor or the designated officer (Superintendent/CEO) of Pembina Trails School Division.
- 7.2 The report must include the following information:
 - a. the number of disclosures received, acted on and not acted on
 - b. the number of investigations initiated as a result of a disclosure
 - c. the case of an investigation that results in a finding of wrongdoing, including a description of the wrongdoing, any recommendations or corrective actions taken or the reasons why no corrective was taken.
- 7.3 The Superintendent/CEO will not publicly identify an employee who requested advice, made a disclosure of wrongdoing or complaint of reprisal, or publicly disclose identifying information within the annual report.
- 7.4 The report must be included in the annual report of the public body, if the annual report is publicly available. Otherwise, the Superintendent/CEO must make the report available to the public on request.

Accomplish Anything

Adopted	Reviewed	Revised	Page
BD20190411.1005			6 of 6