



## PUBLIC INTEREST DISCLOSURE PROCEDURE

<b>Procedure Type:</b>	Institutional	<b>Initially Approved:</b>	September 24, 2018
<b>Procedure Sponsor:</b>	President and CEO	<b>Last Revised:</b>	August 21, 2019
<b>Administrative Responsibility:</b>	Human Resources	<b>Review Scheduled:</b>	September 2023
<b>Approver:</b>	President and CEO		

### A. INTENT

The Public Interest Disclosure Act (PIDA) requires the institution to establish and maintain written procedures, including time periods, for managing and investigating disclosures by employees.

### B. SCOPE

This procedure applies to all Employees of the Alberta University of the Arts (AUArts).

### C. PROCEDURES

#### 1. Reporting Wrongdoing: Making a Disclosure

- 1.1 Employees who reasonably believe a wrongdoing has been committed, is about to be committed, or could show that an employee has been asked to commit a wrong doing, may make a disclosure to the Designated Officer in accordance with these procedures or directly to the Public Interest Commissioner.
- 1.2 Employees considering making a disclosure of wrongdoing may seek information or advice from their supervisor, Designated Officer or the Public Interest Commissioner.
- 1.3 As an employee, you are protected from reprisal beginning when you seek information or advice from your supervisor, the Designated Officer or the Public Interest Commissioner.
- 1.4 Normally, disclosures of wrongdoing are made within thirty business days of discovery and cannot be accepted if more than two years has passed since the date the wrongdoing was discovered.
- 1.5 Employees may report wrongdoing to the Designated Officer by submitting the Public Interest Disclosure Form attached. The form details the required contents of a disclosure.
- 1.6 Employees may report wrongdoing to the Public Interest Commissioner by submitting the Disclosure of Wrongdoing Form on the Public Interest Commissioner's website at <https://yourvoiceprotected.ca/>
- 1.7 If you have made a disclosure to the Designated Officer, you may also make a disclosure directly to the Public Interest Commissioner even if the Designated Officer has made recommendations or concluded the investigation.

## **2. Referral by the Designated Officer**

- 2.1 The Designated Officer may appoint another senior official of AUArts to act as an interim Designated Officer for the purpose of managing a particular disclosure. The Designated Officer may refer a disclosure of wrongdoing to an alternate designated officer if the Chief Officer deems it appropriate in the circumstances or when the Designated Officer is in a conflict of interest.
- 2.2 If a Disclosure is made which would more appropriately be dealt with by another department, public entity, office or the Public Interest Commissioner, the Designated Officer shall refer the disclosure there and the employee who made the disclosure will be so advised.

## **3. Reviewing Disclosures**

- 3.1 The Designated Officer will acknowledge the receipt of your disclosure within five business days.
- 3.2 The Designated Officer will review your disclosure to determine if an investigation will take place and will notify you in writing within twenty business days of receiving the disclosure.
- 3.3 If a disclosure is not accepted on initial review, no further action will be taken by the Designated Officer.
- 3.4 A disclosure will be accepted if the Designated Officer determines that the disclosure
  - a. Was made in good faith and is not frivolous or vexatious.
  - b. Deals with a wrongdoing to which the Act applies.
  - c. Indicates reasonable grounds to believe that the alleged wrongdoing has or may occur.
  - d. Should not be referred to another public entity, government office.
  - e. Has been made within two years since the date the alleged wrongdoing was discovered,
  - f. Has not already been or is in the process of being investigated under the Act, these procedures, a collective agreement or any other policy or procedure which would deal with the wrongdoing alleged in the disclosure.

## **4. Investigating Disclosures of Wrongdoing**

- 4.1 If a disclosure is accepted by the Designated Officer following an initial review, an investigation will be conducted. The investigation and report must be completed within one hundred and twenty business days from the date of the disclosure. The written report must be submitted to the Chief Officer.
- 4.2 A single investigation may be conducted in circumstances where multiple disclosures are made on the same matter.
- 4.3 The Chief Officer may approve an extension of up to thirty business days to the time limits for managing disclosures. The Public Interest Commissioner may grant further extensions.
- 4.4 The investigation must include the investigation of other wrongdoings if, during the investigation of a disclosure, the Designated Officer has reason to believe that another wrongdoing has been committed.
- 4.5 The review and investigation of disclosures will be conducted in accordance with the principles of procedural fairness and natural justice which includes the following:

- a. The employee making the disclosure, had the opportunity to set out the particulars of the alleged Wrongdoing and provide evidence to support the disclosure;
- b. The individual who is alleged to have been involved in a wrongdoing is informed of the essential nature of the allegation against them and have had the opportunity to respond to the allegation;
- c. A lack of bias and
- d. Evidence to support the decision.

## **5. Recommendations and Corrective Action**

- 5.1 Any recommendations for correction action arising from an investigation must be reviewed and approved by the Chief Officer and the Designated Officer. Once approved, AUArts shall initiate steps to take the corrective action within ten business days of approval.
- 5.2 All corrective action must be completed within ninety business days of approval unless extenuating circumstances require further time as determined by the Chief Officer and the Designated Officer.

## **6. Reprisal**

- 6.1 An employee is protected from reprisal when they have in good faith, sought advice about making a disclosure, co-operated in an investigation under the Act or the policy, declined to participate in a wrongdoing or done anything in accordance with the Act or this policy.
- 6.2 The Public Interest Commissioner has exclusive jurisdiction to receive and investigate any complaints of reprisals. If you as an employee believe you have been the subject of a reprisal, your complaint must be submitted directly to the office of the Public Interest Commissioner. Please see <https://yourvoiceprotected.ca/> for the Complaint of Reprisal form.

## **7. Disclosure involving a Possible Offence or an Imminent Risk**

- 7.1 The Designated Officer may refer a disclosure to the Commissioner if the Designated Officer reasonably believes that the matter to which the disclosure relates constitutes an imminent risk of a substantial or specific danger to the life, health or safety of the individuals or to the environment.
- 7.2 In circumstances where the Designated Officer has reason to believe that an offence has been committed under a statute or regulation, as soon as reasonably practicable, the Designated Officer will report to the Chief Officer who will contact a law enforcement agency and advise the Minister of Justice and Solicitor General. In this circumstance, the Designated Officer must suspend the investigation of the disclosure.
- 7.3 The Designated Officer will report matters of imminent risk to the life, health or safety of individuals or the environment to the Chief Officer who will contact
  - a. An appropriate law enforcement agency, or
  - b. In the case of a health-related matter, to the Chief Medical Officer of Health, or
  - c. To the department, public entity or office responsible for managing, controlling or containing the risk, if any, and
  - d. To the Commissioner.

In this circumstance, the investigation into the matter may be suspended.

## **8. Confidentiality**

- 8.1 All information collected in relation to disclosures and investigations will be kept confidential unless there is an imminent risk of a substantial and specific danger to the life, health or safety of individuals or the environment.
- 8.2 All participants in an investigation shall at all times, keep confidential the identity of individuals involved in the disclosure process, the identity of individuals alleged to have committed a wrongdoing, witnesses, information and documents collected related to the disclosure and investigation and the details and results of the investigation.

## **9. Annual Reporting**

- 9.1 The Chief Officer will prepare a report annually on all disclosures made or referred to the Designated Officer. This annual report is available to the public upon request or included in the AUArts Annual Report if it is a public document.
- 9.2 In the annual report, the Chief Officer must not identify an employee who sought advice, made a disclosure or made a complaint of reprisal and must not disclose individual identifying health information.
- 9.3 The annual report must include the number of disclosures received by or referred to the Designated Officer, the number of Disclosures acted on by the Designated Officer, the number of disclosures not acted on by the Designated Officer, the number of investigations commenced by the Designated Officer and where an investigation results in a finding of wrongdoing a description of the wrongdoing and any recommendations made or corrective measures taken in relation to the wrongdoing. If no corrective action is taken, the report must include the reasons for no corrective action.
- 9.4 The Chief Officer will not identify publicly in their annual report, any employee who sought advice, made a disclosure or made a complaint of reprisal nor will the Chief Officer disclose individually identifying health information in the report.

## **10. Offences and Fines**

- 10.1 The Act details offences and fines. Offences include:
  - a. Making a false or misleading statement or knowingly withholding material information in seeking advice about a disclosure or making a disclosure, or during the investigation;
  - b. Counsel or direct another person to make a false or misleading statement or withhold material information in seeking advice about a disclosure or making a disclose or during an investigation;
  - c. Willfully obstruct or counsel or direct another person to willfully obstruct a Designated Officer;
  - d. Conceal, destroy, falsify or alter a document or other information relevant to an investigation or direct or counsel another person to conceal, destroy, falsify or alter a document or other information relevant to an investigation.
- 10.2 Penalties under the Act include fines of \$25,000 for a first offence and \$100,000 for a second offence.

10.3 In addition to the possible fine, any employee found to have committed an offence under the Act may be subject to disciplinary action up to and including termination.

## **11. Freedom of Information and Protection of Privacy (FOIP)**

11.1 There are restrictions to access to information requests under the Freedom of Information and Protection of Privacy Act (FOIP Act). The FOIP Act has been amended and now restricts the right of access to a record that would reveal the identity of a person who has requested advice about making a disclosure, made a disclosure, submitted a complaint of reprisal or whose complaints have been referred to the Alberta Labour Relations Board, unless that information can reasonably be severed from a record.

### **D. DEFINITIONS**

To ensure consistency with the legislation, all definitions for this procedure are set out in the Public Interest Disclosure Policy.

### **E. RELATED POLICIES**

- 500.08.01 Public Interest Disclosure Policy

### **F. RELATED LEGISLATION**

- Public Interest Disclosure Act
- Freedom of Information and Protection of Privacy Act (FOIP Act)

### **G. RELATED DOCUMENTS**

- Public Interest Commissioner <https://yourvoiceprotected.ca/>
- Public Interest Disclosure Policy
- 100. Board of Governors: Code of Conduct Policy

### **H. REVISION HISTORY**

<b>Date (mm/dd/yyyy)</b>	<b>Description of Change</b>	<b>Sections</b>	<b>Person who Entered Revision (Position Title)</b>	<b>Person who Authorized Revision (Position Title)</b>