

PROTECTED DISCLOSURE (“WHISTLEBLOWER”)

This procedure is governed by its parent policy. Questions regarding this procedure are to be directed to the identified Procedure Owner.

Category:	G. People & Culture
Parent Policy:	G25
Approval Date:	October 20, 2022
Effective Date:	October 20, 2022
Procedure Owner:	Chief People & Culture Officer

Overview:	<p>This procedure outlines the process by which:</p> <ul style="list-style-type: none"> • Individuals may make a Protected Disclosure; • Olds College of Agriculture & Technology (the “College”) will respond to a Protected Disclosure; and • Individuals will be protected from Retaliation and Reprisals for making a Protected Disclosure.
Procedures:	<p>1. Making a Protected Disclosure</p> <p>1.1. A Protected Disclosure should be made if an employee believes they have information that indicates a wrongdoing has been committed or is about to be committed, or that indicates that the employee has been asked to commit a wrongdoing.</p> <p>Employees should be aware of the distinction between wrongdoing as defined in the PIDA and employment grievances or performance management issues. Matters falling under the latter category should be addressed pursuant to the policies outlined in the Collective Agreement or College employee related policies.</p> <p>In addition, employees should be aware of the importance of timely disclosure. Complaints should be made as soon as feasible to enable prompt investigation.</p> <p>The Designated Officer is not required to investigate a disclosure or, if an investigation has been initiated, may discontinue the investigation if more than 2 years has passed since the date that the wrongdoing was discovered.</p> <p>1.2. The employee may make a Protected Disclosure to any of the following:</p> <ol style="list-style-type: none"> Supervisor; Chief Officer; Designated Officer; The ConfidenceLine (Telephone #) or Website (Web Address); or The Public Interest Commissioner.

Employees who are considering making a Protected Disclosure may request information or advice from their Supervisor, Designated Officer, Chief Officer or the Office of the Public Interest Commissioner.

The office of the Public Interest Commissioner can be contacted Monday to Friday 08:15-12:00 / 13:00-16:30 at Toll-free province-wide: 1-855-641-8659 or via email at info@pic.alberta.ca

- 1.3. The Protected Disclosure should include the following information:
 - i. A description of the wrongdoing;
 - ii. The name of the individual or individuals alleged to have committed the wrongdoing, or to be about to commit the wrongdoing;
 - iii. The date of the wrongdoing;
 - iv. Whether a disclosure in respect of a wrongdoing has been made under section 5 and whether a response has been received, and if so, a copy of the response.
 - v. Any additional information the designated officer or Commissioner may reasonably require in order to investigate the matters set out in the disclosure.

The prescribed Protected Disclosure of Wrongdoing form is to be used to make a disclosure under this Policy. See Appendix A.

- 1.4. The Protected Disclosure may be submitted anonymously but the Complainant should be aware that this may limit the ability of the College to respond and investigate.

2. Receipt of a Protected Disclosure by the Supervisor, Chief or Designated Officer

- 2.1. The Supervisor, Chief Officer, or Designated Officer will respond in writing within five (5) Business Days to acknowledge receipt of the Protected Disclosure.
- 2.2. The individual receiving the Protected Disclosure will record the details of the Protected Disclosure in writing, including:
 - i. the date and time the disclosure was received;
 - ii. the name of the Complainant (unless the Complainant has requested anonymity);
 - iii. the name(s) of the Respondent; and
 - iv. full details of the disclosure.
- 2.3. The individual receiving the Protected Disclosure will promptly refer the Protected Disclosure to the Designated Officer.
- 2.4. If the Designated Officer finds they have a conflict of interest in relation to the disclosure, the Alternate Designated Officer will assume the role for the duration of that disclosure's investigation process.
- 2.5. If the Designated Officer or Alternate Designated Officer receives a disclosure which contains allegations against:
 - i. The Board, the Designated Officer or Alternate Designated Officer will forward that disclosure to the Commissioner.
 - ii. The President or the Executive Leadership Team (ELT), the Designated Officer or Alternate Designated Officer will forward that disclosure to the Board. In such a circumstance, the Board will retain an external consultant to handle that disclosure in accordance with this Policy.

Note - An employee who has made a disclosure to the Designated Officer may also make a disclosure to the Commissioner, even if the Designated

Officer has made recommendations or concluded the investigation.

3. Receipt of a Protected Disclosure by the External Service Provider

- 3.1. A call assistant will answer a call to the ConfidenceLine. A call assistant will listen to and record details of the Protected Disclosure. The call assistant may also ask the Complainant questions to clarify facts.
- 3.2. The Complainant may provide their name to the call assistant or choose to remain anonymous. In either case, the call assistant will provide the Complainant with a personal Caller Information Number (CIN) which will be the only identification required for subsequent calls by the Complainant to the ConfidenceLine.
- 3.3. The call assistant will create a report containing pertinent information about the Protected Disclosure. This information will be made available electronically to the Designated Officer.
- 3.4. The call assistant will provide the Complainant with information on whether the Protected Disclosure is being investigated if the Complainant calls back.

4. Receipt of a Protected Disclosure by the Designated Officer

- 4.1. If the Protected Disclosure has not yet been acknowledged, the Designated Officer will acknowledge receipt of the Protected Disclosure within five (5) Business Days after it is received.
- 4.2. The Designated Officer will review the following with the Complainant if the Complainant is not anonymous:
 - i. this procedure;
 - ii. potential alternative procedures for dealing with the matter;
 - iii. confidentiality protections;
 - iv. the record keeping process; and
 - v. the commitment of the College to protect the Complainant from retaliation and reprisal.
- 4.3. Within ten (10) Business Days of receipt of the Protected Disclosure, the Designated Officer will decide if:
 - i. the disclosure should be dealt with as a Protected Disclosure of Wrongdoing;
 - ii. the disclosure should be referred to an alternate process;
 - iii. the disclosure should be dismissed for being False, Misleading or Frivolous; or
 - iv. the disclosure should be dismissed for another valid reason.
- 4.4. Within the ten (10) Business Days of receipt of the Protected Disclosure, the Designated Officer will inform the ConfidenceLine or the Complainant, if the Complainant is not anonymous, of the decision and what the next steps are, if any.
- 4.5. The Designated Officer will refer the Protected Disclosure to the Commissioner as soon as reasonably practicable if the Designated Officer reasonably believes that the matter to which the Protected Disclosure relates constitutes an imminent risk of substantial or specific danger to the life, health or safety of individuals, or to the environment.

5. Protecting the Complainant

- 5.1. The Designated Officer may appoint an advocate for the Complainant to assist in managing the Complainant's welfare. The advocate will:
 - i. examine the immediate welfare and protection needs of the Complainant;
 - ii. ensure the Complainant is aware of employee assistance programs or other supports;
 - iii. listen to any concerns of harassment or intimidation, or retribution or reprisal for making a Protected Disclosure; and

- iv. act as liaison and guide pertaining to the process.

6. Investigating a Protected Disclosure

- 6.1. The Designated Officer will appoint an Investigator to carry out the investigation. The Investigator may be an individual internal or external to the College.
- 6.2. The objectives of the investigation will be:
 - i. to collect information relating to the allegation. This may involve steps to protect or preserve documents, materials and equipment and to interview witnesses;
 - ii. to consider the information collected and to draw conclusions objectively and impartially;
 - iii. to maintain procedural fairness in the treatment of the Complainant, Respondent and witnesses; and
 - iv. If applicable, to make recommendations arising from the conclusions drawn concerning non-disciplinary remedial or other appropriate action.
- 6.3. The Designated Officer will draw up terms of reference for the investigation of a Protected Disclosure and appoint the Investigator.
- 6.4. The terms of reference will include:
 - i. The purpose, procedure, and possible outcomes of the investigation;
 - ii. The projected date or timeline for completion of the investigation (no later than 110 Business Days after the receipt of the Protected Disclosure);
 - iii. A preliminary list of the witnesses that may be interviewed;
 - iv. The data or documentary evidence required; and
 - v. Any other resources and authorizations necessary to conduct the investigation.

The investigator will update the Designated Officer on the progress of the investigation.
- 6.5. Pursuant to the Act, the Chief Officer may approve an extension of time to complete an investigation up to thirty (30) Business Days when requested by the Investigator. Any further extension of time must be approved in advance by the Commissioner.
- 6.6. The Investigator will prepare an investigation plan for approval by the Designated Officer. The plan will list the issues to be substantiated and describe the avenue of inquiry. The plan will ask 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?
- 6.7. If the Complainant can be contacted, the Complainant will, at this point in the process, be:
 - i. notified by the Investigator that they have been appointed to conduct the investigation;
 - ii. asked to clarify any matters; and
 - iii. asked to provide any additional material the Complainant might have.
- 6.8. A single investigation can be conducted in circumstances where multiple disclosures are made on the same matter.
- 6.9. The Investigator will follow the principles of natural justice. The principles of natural justice concern procedural fairness and ensure a fair decision is reached by an objective decision-maker. Maintaining procedural fairness protects the rights of individuals and enhances public confidence in the process.

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

- i. The Respondent is entitled to know the allegations made against them and must be given the right to respond. This does not mean the Respondent must be advised of the allegation as soon as the disclosure is received or the Investigation has commenced; and
- ii. If the Investigator is contemplating making a report adverse to the interests of any person, that person should be given the opportunity to put forward further material that may influence the outcome of the report and that person's defense should be set out in the report.

7. Conducting the Investigation

- 7.1. Everyone involved in the investigation of a Protected Disclosure will keep all information relating to the Protected Disclosure confidential except for information required to be shared under this policy or information shared with those who have a legitimate need for the information.
- 7.2. The Investigator will make notes of all discussions, phone calls, and interviews with witnesses.
- 7.3. If the Complainant or Respondent are represented by a union or faculty association, they will be advised of their right to representation and may request to have a union or faculty association representative present during any investigation meetings or interviews.
- 7.4. The Designated Officer will advise the Complainant of the progress of the Investigation and whether the complaint was substantiated or not.

8. Final Report of the Investigator

- 8.1. When the Investigation is complete, the Investigator will submit a written investigation report to the Designated Officer. The report will include:
 - 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. If the Investigator has found evidence of Wrongdoing, recommendations for nondisciplinary action that 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 misconduct.
- 8.2. If the investigation has identified any other possible violations of the Act or College policy, the Investigator should include the possible violations in the report. The possible violations identified in the report will be dealt with by the Designated Officer in accordance with this procedure.
- 8.3. The report will be accompanied by all records created or received by the Investigator in the course of the investigation.
- 8.4. The report will not include information that leads or could lead to the identification of the Complainant if the Complainant has requested anonymity.

9. Outcome of the Investigation

- 9.1. If the Designated Officer is satisfied that the report brings the Investigation to an end, the Designated Officer will provide a report to the Chief Officer including:
 - i. whether the Protected Disclosure was substantiated; and

- ii. recommendations for non-disciplinary corrective action.
- 9.2. If the complaint is substantiated, the Designated Officer will provide the relevant dean or manager with the report or a summary of the report's findings and recommendations.
- 9.3. In accordance with the Occupational Health and Safety Act (Alberta), if a workplace harassment Complaint has been substantiated, the College will notify the Complainant of the corrective action(s) the employer is taking to eliminate and prevent workplace hazards.
- 9.4. A Respondent who is found to have committed a breach of the Act or of College policy may be subject to disciplinary action up to and including termination of employment or other relationship with the College. Disciplinary action will be taken in accordance with the provisions of any applicable collective agreement or any applicable policy relating to Student conduct.

10. Records

- 10.1. Records pertaining to a Protected Disclosure are the property of the College and will be retained in accordance with College document retention rules. Records will also be safeguarded to ensure confidentiality and, when applicable, the Complainant's anonymity.
- 10.2. The Designated Officer will provide the Chief Officer and the Chair of the Board of Governors with an annual statistical summary of all Protected Disclosures received under this procedure including those handled informally or referred to an alternate process.

11. Chief Officer's Annual Report

- 11.1. The Chief Officer will prepare a report annually on all Protected Disclosures received which involve a violation of the Act. This report will include:
 - i. the number of disclosures received by the Designated Officer that involve a violation of the Act, the number of disclosures that were acted on and the number of disclosures not acted on by the Designated Officer;
 - ii. the number of investigations commenced by the Designated Officer as a result of Protected Disclosures involving violations of the Act; and
 - iii. in the case of an investigation that results in a finding of a violation of the Act, a description of the violation and any recommendations made or corrective measures taken in relation to the violation or the reasons why no corrective action was taken.
- 11.2. The Chief Officer is restricted from publicly identifying, in their annual report, an Employee who sought advice, made a Protected Disclosure, or made a complaint of reprisal and from disclosing individually identifying health information.
- 11.3. The annual report of the Chief Officer will be included in the annual report of the College and will be made publically available upon request.

Definitions:

The Act: The *Public Interest Disclosure (Whistleblower Protection) Act (Alberta)*, as amended, and any regulations thereunder.

Business Days: Means days that the College is open for business, excluding weekends and holiday closures.

Chief Officer: The President

Claimant: Disclosure of wrongdoing made in good faith by an Employee in accordance with this policy.

College: Olds College of Agriculture & Technology

Commissioner: The Public Interest Commissioner appointed by the Lieutenant Governor in Council in accordance with the Act.

ConfidenceLine or Website: The external service provider established for receiving complaints under the Act.

Designated Officer: The Chief Officer or an individual appointed by the Chief Officer to manage and report on Protected Disclosures made in accordance with this Policy and related procedures.

Employee: An individual who is engaged to work for the College under an employment contract, including faculty, staff, exempt, casual and management employees.

“False, Misleading or Frivolous”: A disclosure or report which:

- i. misuses or abuses the disclosure process;
- ii. is not reasonably purposeful or constructive, with no reasonable or appropriate outcome that would resolve the subject matter of the disclosure; and/or
- iii. is malicious, hostile, lacking in fairness and impartiality, dishonest, or generally against the concept of Good Faith Reporting.

Good-Faith: A report which is transparent, honest, fair, impartial and reasonable and made without malice or ulterior motive.

Imminent Risk: Refers to situations that require immediate attention because they could pose significant risk to public health or safety, or impacts on the environment.

Interference: Any direct or indirect action or use of authority to obstruct an individual’s right to make a Protected Disclosure.

Investigation Report: The written report summarizing the investigation and the Investigators findings including: i. findings of fact; ii. assessment of all of the evidence; and iii. an analysis and conclusion as to whether or not the complaint was substantiated.

Investigator: The person or persons appointed by the Designated Officer to investigate a Protected Disclosure.

Personnel: Full-time, part-time and temporary Employees, student Employees and Contingent Workforce Contractors of the College.

Policy: The Protected Disclosure (“Whistleblower”) policy.

Principles of Procedural Fairness and Natural Justice: Means that the Claimant has a right to be heard in a fair and unbiased manner prior to a decision being made that may have a negative impact on their rights or interests. This includes being informed of the facts alleged and given the full opportunity to respond. However, this does not include being informed of the identity of a person(s) who have made a Protected Disclosure.

Protected Disclosure: Means a written report of Wrongdoing made in good faith by an Employee in accordance with the Act and this Policy and related procedures.

Respondent: The Employee who is alleged to have breached the Act, the Code of Conduct or where applicable, other College policy.

Retaliation and Reprisal: Actions or measures that are taken, or threatened to be taken against Personnel, Contractor or Student for reporting a possible Wrongdoing, including but not limited to:

- i. a dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job, change of job location, reduction in wages, change in hours of work or reprimand;
- ii. any actions or measures, other than those mentioned in item (i) above, that adversely affects the employment or working conditions of a Personnel, Contractor or Student;
- iii. intimidation or coercion; and
- iv. harassment or discrimination.

Supervisor: The immediate superior of the Employee, and in the case of a Member, means the Chair of the Board of Governors.

Wrongdoing: The activity or conduct engaged in by an Employee in or relating to the College, as follows:

- i. A contravention of an Act, a regulation made pursuant to an Act, an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada
- ii. An act or omission that creates a substantial and specific danger to the life, health or safety of individuals other than a danger that is inherent in the performance of the duties or functions of an employee, or
- iii. A substantial and specific danger to the environment; gross mismanagement, including an act or omission that is deliberate and that shows a reckless or wilful disregard for the proper management of:
 - Public funds or a public asset,
 - The delivery of a public service, including the management or performance of:
 - A contract or arrangement identified or described in the regulations, including the duties resulting from the contract or arrangement or any funds administered or provided under the contract or arrangement, and
 - The duties and powers resulting from an enactment identified or described in the regulations or any funds administered or provided as a result of the enactment, or
 - Employees, by a pattern of behaviour or conduct of a systemic nature that indicates a problem in the culture of the organization relating to bullying, harassment or intimidation;
- iv. A wrongdoing prescribed in the regulations;
- v. Knowingly directing or counseling an individual to commit a wrongdoing mentioned in the above clauses.

Related Information:

Review Period:

3 years

Revision History:

New: 2014
Revised: 2016
Revised: October 2022