

PUBLIC INTEREST DISCLOSURE (Whistleblower Protection)

Background

The Province of Alberta has enacted the Public Interest Disclosure (Whistleblower Protection) Act (“the Act”) in order to:

- Facilitate the disclosure and investigation of significant and serious matters in or relating to public bodies, including school boards that an employee believes may be unlawful, dangerous to the public, or injurious to the public interest.
- Protect employees who make those disclosures.
- Manage, investigate and make recommendations respecting disclosures of wrongdoings and reprisals.
- Promote public confidence in the administration of public bodies.

In the interest of providing a positive supportive environment for employees and in maintaining a commitment to high standards of ethical and accountable conduct, St. Thomas Aquinas Roman Catholic Schools will provide an environment that will allow employees to come forward to disclose wrongdoing without fear of reprisal, consistent with the Public Interest Disclosure (Whistleblower Protection) Act (“the Act”) and related Regulations of the Province of Alberta.

Procedures

1. This Administrative Procedure applies to “wrongdoings” in or relating to St. Thomas Aquinas Roman Catholic Schools, its schools, departments and employees that involve:
 - 1.1 A contravention of an Act of Alberta or Canada or the Regulations related to those acts, or
 - 1.2 An act or omission that creates:
 - 1.2.1 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
 - 1.2.2 A substantial and specific danger to the environment.
 - 1.3 *Gross mismanagement, including an act or omission that is deliberate and that shows a reckless or willful disregard for the proper management of*
 - (i) *public funds or a public asset,*
 - (ii) *the delivery of a public service, including the management or performance of*

*(A) 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
(B) 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,*

(iii) 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.

- 1.4 Knowingly directing or counseling an individual to commit a wrongdoing mentioned above.
2. The Superintendent of Schools is designated the Chief Officer for the purpose of the overall administration and reporting required under the Act.
3. The Chief Officer must:
 - 3.1 Establish and maintain, in accordance with the Act, written procedures for managing and investigating disclosures;
 - 3.2 Appoint a Designated Officer to manage and investigate disclosures under the Act;
 - 3.3 Receive recommendations resulting from investigations;
 - 3.4 Fulfil the annual reporting requirements; and
 - 3.5 Ensure employee awareness of the Act, this Procedure and disclosure procedures.
 - 3.6 Prepare a report annually on all disclosures made or referred to the designated officer. The following information must be included:
 - 3.6.1 the number of disclosures received or referred to the Designated Officer;
 - 3.6.2 the number of disclosures acted on;
 - 3.6.3 the number of disclosures not acted on;
 - 3.6.4 the number of investigations commenced by the Designated Officer;
 - 3.6.5 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.

The Chief Officer's report must be publicly available.

4. The Designated Officer will manage and investigate disclosures in accordance with the Act.
5. The authority and discretion to determine the nature and the scope of the investigative process rests with the Designated Officer.
6. In circumstances where the Chief or Designated Officer has reason to believe that criminal activity or an offence has been committed under a statute or regulation, the Act requires the offence be reported to a law enforcement agency and to the Minister of Justice and Solicitor General as soon as reasonably practicable.

Any investigation into the matter will be suspended until it has been finally disposed of by a law enforcement agency or the Minister of Justice and Solicitor General.

7. The Designated Officer is to act as a neutral party to facilitate and process internal reports of suspected wrongdoing. This includes:
 - 7.1 Providing education, access and advice on the terms of this Procedure;
 - 7.2 Assisting employees who wish to report a suspected wrongdoing;
 - 7.3 Receiving and processing reports of suspected wrongdoing;
 - 7.4 Assessing reports of suspected wrongdoing and determining if there are sufficient grounds to warrant further action;
 - 7.5 Determining what actions must be taken to address the suspected wrongdoing, including providing a report to the Chief Officer or to outside law enforcement, where necessary;
 - 7.6 Implementing measures to protect employees who report suspected wrongdoing in good faith from reprisals;
 - 7.7 Implementing measures to protect employees, who are witnesses or provide information in relation to a report of suspected wrongdoing from reprisals;
 - 7.8 Making recommendations for consequences if a complaint or allegation is filed maliciously or in bad faith;
 - 7.9 Keeping records of all complaints and allegations and any investigations or remedial action taken;
 - 7.10 The Chief or Designated Officers will report matters of imminent risk to the life, health or safety of individuals or the environment, to:
 - 7.10.1. an appropriate law enforcement agency;
 - 7.10.2. in the case of a health-related matter, to the Chief Medical Officer of Health;

7.10.3. to the department, public entity or office responsible for managing, controlling or containing the risk; and

When an investigation into the matter occurs as outlined above, the matter will be suspended until it has been finally disposed of by a law enforcement agency or the Minister of Justice and Solicitor General.

- 7.11 Refer a disclosure to another public entity or office of the Legislature; and
 - 7.12 Prepare an annual report on all disclosures.
8. Supervisors are expected to:
- 8.1 Ensure employees are aware of the process for reporting wrongdoing;
 - 8.2 Be open and accessible to employees who express concerns about suspected wrongdoings;
 - 8.3 Immediately, upon receiving the report, refer the employee to the Designated Officer;
 - 8.4 Cooperate with investigations; and
 - 8.5 Protect employees who report suspected wrongdoings from reprisals.
9. An employee who perceives a wrongdoing has been committed or is about to be committed may report the perceived wrongdoing to the Designated Officer or the Public Interest Commissioner.
10. All reports of wrongdoing must be made in writing, completed using the current Public Interest Disclosure (Whistleblower Protection) Reporting Form and in accordance with the Administrative Procedure.
11. Reports must be made in good faith and based on reasonable grounds.
12. Reports must be made on a timely basis.
13. This process does not normally apply to concerns/complaint addressed through other Administrative Procedures, including but not limited to, workplace violence, health and safety of staff, safe and caring working environments for employees, etc.
14. If the disclosure is believed to be a matter of imminent risk of a substantial or specific nature to the life, health or safety of individuals or to the environment, such that there is insufficient time to report to the Designated Officer, the report should be made directly to the Commissioner.
15. If the disclosure involves the Chief Officer or Designated Officer, the report can be made directly to the Commissioner.
16. If the disclosure has been made and not resolved within the specified time periods or according to procedures, a report may be made directly to the Commissioner.

17. If the employee is not satisfied with the resolution of a completed investigation, a report can be made directly to the Commissioner.
18. All complaints and allegations received through the processes in this Procedure will be appropriately reviewed and evaluated for possible investigation, in accordance with the Administrative Procedure.
19. The Designated Officer may consult with the Chief Officer or the Commissioner before launching an investigation.
20. All employees will cooperate fully with the Designated Officer or any investigators designated by the Designated Officer.
21. All investigations will be conducted in accordance with the *Alberta Freedom of Information and Protection of Privacy Act* (Alberta)
22. A disclosure must be acknowledged, in writing to the disclosing employee, within five (5) business days from the date the disclosure is received.
23. The Designated Officer shall decide whether an investigation is required and shall notify the disclosing employee in writing of that decision within a maximum of ten (10) business days from the date on which the disclosure was received.
24. The findings of the investigation will be reported, in writing, to the Chief Officer and the person making the complaint or allegation within one hundred ten (11) business days of receiving the report of suspected wrongdoing
25. The Chief Officer may extend the above time limits provided that the overall time period for investigation and the provision of a report is not extended for more than thirty (30) business days.
26. Individuals engaged in the investigation of an alleged wrongdoing will not include any individuals who have a potential, perceived or real conflict of interest to the matter being investigated.
27. Information collected during the course of a disclosure investigation will be kept confidential according to the limits outlined by the Act and the Administrative Procedure.
28. All employees who have knowledge of, or are participants in an investigation pursuant to this Procedure shall keep the details and results of the investigation confidential.
29. All records will be maintained according to St. Thomas Aquinas Catholic Schools records retention schedule.
30. No person will engage in reprisal against an individual for:
 - 30.1 Making a report, or
 - 30.2 Cooperating with an investigation.
31. All complaints of reprisals will be managed and investigated by the Commissioner.

32. An employee who intentionally makes a false, bad faith or vexatious report will suffer appropriate consequences, up to and including termination of employment.

The Chief Officer must report annually to the Commissioner on the:

- 32.1 Number of inquiries;
 - 32.2 Number of disclosures;
 - 32.3 Number of investigations; and
 - 32.4 Recommendations made.
33. This report must be made available to the public.

Reference:

AP161 – Health and Safety of Students and Staff
AP170 – Workplace Violence
AP171 – Safe and Caring Working Environments for Employees and Volunteers
Alberta Public Interest Disclosure (Whistleblower Protection) Act (Alberta)
Alberta Public Interest Disclosure (Whistleblower Protection) Regulation