

### 400.3 Whistleblower Protection

The following will apply for managing and investigating disclosures of wrongdoing:

1. An employee can make a disclosure of wrongdoing by completing the 'Disclosure of Wrongdoing Form'.
2. After a complaint is received from an employee, the Designated Officer must acknowledge receipt of the disclosure within 5 business days.
3. Within 20 business days, the Designated Officer must decide whether an investigation is required and notify the employee who made the disclosure of the decision and the reason for the decision.
4. To establish jurisdiction over a complaint of wrongdoing under the Act, the Designated Officer shall confirm:
  - a. The disclosure relates to the actions by an employee of the Lethbridge School Division;
  - b. The disclosure appears to have been made in good faith,
  - c. The alleged wrongdoing occurred post enactment of the Act and less than two years have passed since the discovery of the wrongdoing;
  - d. The allegation(s) appear to meet the definition of wrongdoing as defined in section 3 of the Act;
  - e. The allegation(s) has a public interest component and are not based only on perceived wrongs perpetrated against the individual employee who made the disclosure.
5. Where the disclosure of wrongdoing does not meet the jurisdiction of the Act, the Designated Officer must notify the employee who made the disclosure. The Designated Officer may refer the employee to a more appropriate process or alternate authority.
6. An investigation is not required if:
  - a. The subject-matter of the disclosure could more appropriately be dealt with, initially or completely, according to a procedure provided for under this or another Act or a regulation;
  - b. The disclosure relates to a matter that could more appropriately be dealt with according to the procedures under a collective agreement or employment agreement;
  - c. The disclosure is frivolous or vexatious, has not been made in good faith or does not deal with a wrongdoing;
  - d. The disclosure relates to a decision, action or matter that results from a balanced and informed decision-making process on a public policy or operational issue;
  - e. The disclosure does not provide adequate particulars about the wrongdoing as required by section 13 to permit the conduct of a fair and effective investigation;
  - f. More than 2 years has passed since the date that the wrongdoing was discovered;

- g. There is another valid reason for not investigating the disclosure (e.g. The subject matter of the disclosure is under investigation by another authority or is currently before the courts).
7. Disclosures alleging gross mismanagement of employees are jurisdictional under the Act when all of the following apply:
  - a. There is a pattern of behaviour or conduct of a systemic nature by the alleged wrongdoer(s);
  - b. The conduct or pattern of behaviour indicates a problem within the culture of the Lethbridge School Division including a business unit within Lethbridge School Division;
  - c. The conduct relates to bullying, harassment, or intimidation; and
  - d. The matter does not relate to an individual dispute between employees or between an employer and their manager.
8. When assessing a disclosure alleging gross mismanagement of employees, the Designated Officers shall consider whether all applicable mechanisms, including any human resource process or processes under a collective agreement, to address bullying, harassment or intimidation, within the organization have been used or considered.
  - a. If all other mechanisms have not been used or considered first, the Designated Officer may refer the employee to the alternate process. If the matter is referred to an alternate process, the employee remains protected from adverse employment action as a result of the initial disclosure or request for advice. If the matter is not resolved through the alternate process, the employee may return the matter to the Designated Officer.
  - b. If no other mechanisms exist, there is a legitimate concern that employees may become the target of reprisal, or based on the nature of the allegation the Designated Officer believes the matter should be investigated under the Act, the Designated Officer may investigate the matter.
9. An employee who is dissatisfied with the Designated Officer's decision may bring the matter to the Public Interest Commissioner.
10. The Designated Officer will notify the Chief Officer prior to initiating an investigation into a disclosure of wrongdoing. The Designated Officer may consult with the Chief Officer regarding the management and investigation of the disclosure.
11. The Designated Officer may request advice and support from the Commissioner during the management and investigation of a disclosure.
12. Prior to initiating an investigation, the Designated Officer shall prepare terms of reference including:
  - a. The scope of the investigation;
  - b. The human resources required to complete the investigation including external consultants and subject matter experts;
  - c. A preliminary list of witnesses to be interviewed;
  - d. A preliminary list of records required for the purpose of the investigation; and
  - e. A timeline for completion of the investigation.
13. The Designated Officer must conclude an investigation not more than **120 business days** from the date the disclosure of wrongdoing was received. The Chief Officer, with the Commissioner's permission, may extend the time period to complete the investigation that the Commissioner considers to be appropriate in the interest of a fair and efficient outcome.

14. At the conclusion of an investigation, the Designated Officer must prepare a report for the Chief Officer outlining the allegations investigated, whether the investigation found wrongdoing occurred, and recommendations for corrective measures.
15. The Chief Officer shall consider the recommendations, implement corrective measures to remedy the wrongdoing, and take appropriate disciplinary action as required, which may include termination of employment.
16. An employee who is dissatisfied with the outcome of the investigation by the Designated Officer or believes the matter has not been resolved may bring the matter to the Public Interest Commissioner.

### References

Alberta School Act:	Section 67
Legal References:	Public Interest Disclosure (Whistleblower Protection) Act (PIDA) Public Interest Disclosure (Whistleblower Protection) Regulation
Division Forms:	Disclosure of Wrongdoing Form Complaint of Reprisal Form Policy 400.3 Whistleblower Protection
Other Forms:	Public Interest Commissioner Online Disclosure Form <a href="https://yourvoiceprotected.ca/for-employees/disclosure-form/">https://yourvoiceprotected.ca/for-employees/disclosure-form/</a> Public Interest Commissioner Online Report a Reprisal Form <a href="https://yourvoiceprotected.ca/for-employees/reprisal-form/">https://yourvoiceprotected.ca/for-employees/reprisal-form/</a>