

## ADMINISTRATIVE PROCEDURE

Personnel and Employee Relations

Public Interest Disclosure  
(Whistleblower Protection)

PER #39

Reviewed: February 2023

### Background

School boards are designated as public entities to which the Public Interest Disclosure Act (“PIDA”) applies. The Superintendent of The Christ The Redeemer (“CTR”) Catholic Separate School Division is designated as “chief officer” of the board for the purposes of PIDA.

#### 1. Background Statements:

- On June 1, 2013, (amended in 2017) PIDA came into force in Alberta. The purpose of PIDA is to
  - Facilitate the disclosure and investigation of significant and serious matters in public entities, 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 entities.
- PIDA and its regulations require CTR Catholic to adopt written procedures for managing and investigating disclosures by employees and provide minimum requirements for those written procedures.
- CTR Catholic is committed to the highest standard of ethical and accountable conduct and recognizes the importance of working to deter and detect wrongdoing within its operations, and to promote public confidence in the administration of the Board of Trustees (“Board”). To ensure this, CTR Catholic is committed to maintaining a positive and supportive environment whereby employees can disclose potential wrongdoing, or seek advice about disclosing a potential wrongdoing, without retribution, and are provided with clear guidance for how those disclosures may take place.
- Under PIDA, an employee of CTR Catholic may make a disclosure of a wrongdoing, which CTR Catholic will investigate in accordance with these procedures.
- CTR Catholic is required under Section 5(1) of PIDA to establish and maintain, in accordance with PIDA, written procedures, including time periods, for managing and investigating disclosures by employees of CTR Catholic. Those written procedures are set out herein.

### Procedures

#### 2. Definitions:

**Chief officer:** means the Superintendent of CTR Catholic.

**Designated officer:** means person designated to manage and investigate disclosures under PIDA.

**Commissioner:** means the Public Interest Commissioner appointed under PIDA.

**Disclosure:** means a disclosure of wrongdoing made in good faith by an employee under PIDA and this policy.

**Employee:** means an individual employed by CTR Catholic or an individual who has suffered a reprisal and is no longer employed by CTR Catholic.

**Reprisal:** means any adverse employment action taken against an employee who seeks advice on making a disclosure, makes a disclosure, or co-operates in an investigation of wrongdoing, or declines to participate in a wrongdoing in accordance with PIDA. Examples of reprisal include dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job, transfer, reduction in wages, change in hours of work or reprimand, any other measure that adversely affects the employee's employment or working conditions (e.g., bullying), and threats to do any of the above.

**Wrongdoing:** means

- 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.
- An act or omission that creates: (i) 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 (ii) a substantial and specific danger to the environment.
- Gross mismanagement, including an act or omission that is deliberate and that shows a reckless or willful 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 PIDA regulations, including the duties resulting from the contract or arrangement of any funds administered or provided under the contract or arrangement.
    - 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.
  - 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;
- A wrongdoing prescribed in the PIDA regulations;
- Knowingly directing or counselling an individual to commit a wrongdoing mentioned above.

3. The Superintendent, or designate, is the designated officer for the purpose of PIDA.

- Receipt of Disclosures:
  - Employees who are considering making a disclosure and are seeking advice as to how to request information, can contact the office of the Public Interest Commission Monday to Friday, 8:15 a.m. to 12:00 p.m., and 1:00 p.m. to 4:00 p.m. at toll free province wide telephone number 1-855-641-8659, or via email at [info@pic.alberta.ca](mailto:info@pic.alberta.ca).
  - When employees reasonably believe a wrongdoing has been committed, is about to be committed, or they could show that the employee has been asked to commit a wrongdoing, the employee may make a disclosure to their designated officer in accordance with the established procedures, or directly to the Public Interest Commissioner, using the online web-form available at [www.yourvoiceprotected.ca](http://www.yourvoiceprotected.ca). Employees who are unable, or do not wish to use the web form may contact the office of the Public Interest Commissioner.
  - Employees seeking advice on a potential disclosure under PIDA and this policy shall seek advice from their supervisor, the chief officer, or the Public Interest Commissioner.

- Anonymous disclosures will not be accepted by the designated officer however they can be directed to the Public Interest Commissioner's office.
- Employees shall make disclosures for the purposes of PIDA and this policy to the designated officer, by completing the PIDA Disclosure Form attached hereto as Appendix I.
- The designated officer shall acknowledge receipt of the disclosure to the employee making the disclosure within 5 business days from receipt of the disclosure.
- Preliminary Handling of Disclosures:
  - Where the designated officer is of the opinion that the subject matter of a disclosure would more appropriately be dealt with by a department of the Government of Alberta, an office of the Legislature, or another public entity, the designated officer shall report the subject matter of the disclosure to the designated officer of that other entity.
  - Where an alternative process exists for the handling of the subject matter of the disclosure under:
    - Another policy/procedure of the board (for example, harassment policy or evaluation policy).
    - Another Act or regulation (for example, human rights or occupational health and safety legislation).
    - Procedures under a collective agreement or employment contract, and the designated officer is of the opinion that the subject matter of the disclosure would be more appropriately dealt with under that alternative process, the designated officer may refer the disclosing employee to those procedures.
  - The designated officer may decline to investigate the disclosure where the disclosure:
    - Is clearly frivolous or vexatious, has not been made in good faith, has not been made in a timely enough manner to permit an investigation, or does not deal with a wrongdoing.
    - Relates to a decision, action or matter that results from a balanced and informed decision-making process on a public policy or operational issue.
    - Does not provide adequate particulars about the wrongdoing to permit the conduct of a fair and effective investigation.
    - Presents another valid reason for not investigating the disclosure.
  - If more than one disclosure is made of a single wrongdoing, the designated officer may conduct a single investigation into the wrongdoing.
  - The designated officer shall advise the employee making the disclosure whether the disclosure will or will not be investigated within 10 business days from receipt of the disclosure.
- Mandatory Disclosures to Others:
  - 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 individuals, or to the environment, the designated officer shall as soon as reasonably practicable refer the disclosure to either a law enforcement agency, the Chief Medical Officer of Health (in the case of a health-related matter), the department, entity, office or prescribed service provider charged with managing/controlling/containing the risk (if any), any person prescribed in the regulations for the purpose of this clause, or the Commissioner.
  - The designated officer shall also ensure that appropriate persons within CTR Catholic have sufficient information to act to abate that risk notwithstanding whether a disclosure is referred to the Commissioner, where the designated officer is aware
    - of a disclosure relating to an imminent risk of a substantial or specific danger to the life, health or safety of individuals, or to the environment; or

- that the alleged wrongdoing, if true, may threaten the welfare of students, staff, or the safe and caring environment of the school.
  - Where, at any point following a disclosure, the designated officer has reason to believe that the alleged wrongdoing, if true, could potentially give rise to the chief officer being of the opinion that the welfare of students is threatened by the presence of the teacher, the designated officer shall advise the chief officer of the alleged wrongdoing for consideration of a possible administrative suspension under Section 213(1) of the Alberta Education Act.
  - Where in the course of an investigation the designated officer has reason to believe that an offence has been committed under an Act or regulation of the Province of Alberta, or under an Act or regulation of the Parliament of Canada, the designated officer shall report the potential offence to the appropriate law enforcement authorities, and to the Minister of Justice and Solicitor General.
- Investigations:
  - The designated officer shall conduct all investigations in accordance with the principles of natural justice and procedural fairness.
  - The designated officer may utilize internal personnel and resources, and may retain outside personnel or resources, for the purpose of conducting the investigation. Anyone so utilized should operate under the same confidentiality requirements as the designated officer, who may wish to operate on a need-to-know basis in relation to tasking personnel resources.
  - The designated officer, and any person conducting an investigation on their behalf, may interview any person and shall have access to any documents of CTR Catholic necessary for the investigation.
  - Where, during an investigation, the designated officer has reason to believe that another wrongdoing has been committed or may be committed, the designated officer shall investigate that other potential wrongdoing as if a disclosure had been made.
- Report:
 

The chief officer must prepare a report annually on all disclosures made or referred to the designated officer. These reports must be included in the public entity's Annual Report if publicly available, and if the Annual Report is not publicly available, the report must be made available to the public upon request.

  - Chief officers are restricted from publically identifying, in the annual report, an employee who sought advice, made a disclosure, or made a complaint of reprisal, and from disclosing individually identifying health information.
  - The designated officer shall provide a written investigation report to the chief officer detailing whether the disclosure was substantiated, and providing recommendations on corrective action.
  - The investigation shall be completed and the written investigation report provided to the chief officer no later than 110 business days from the date the disclosure was received.
  - The person making the complaint shall be advised when the investigation is completed, the recommendations made in the written investigation report, and the chief officer's actions resulting from the written investigation report.
- Extensions of Timelines:
  - The designated officer may request of the chief officer, and the chief officer may grant, extensions of timelines within this policy, provided that the total extensions granted do not extend the overall time period for investigation and provision of the investigation report by more than 30 business days.

- The chief officer may request permission from the Commissioner to extend timelines for a longer period.
- In the event of an extension of a timeline, the designated officer shall promptly advise the person who submitted a disclosure of wrongdoing when he or she may expect the next procedural step to occur or be completed.
- Conflicts of Interest / Disclosures About the Chief Officer:
  - In the event the designated officer is in a conflict of interest with respect to the nature of the disclosure or any person involved in the disclosure or alleged wrongdoing, the designated officer shall request the chief officer to designate an alternative designated officer for the disclosure. The alternative designated officer shall have all the powers of the designated officer for the purpose of the disclosure.
  - In the event of a disclosure to the designated officer concerning the conduct of the chief officer, or concerning which the chief officer has a conflict of interest, the designated officer shall:
    - Advise the Board Chair of the nature of the disclosure, whereupon the Board may authorize an investigation into the disclosure.
    - Advise the Commissioner of the disclosure and its referral to the Board and seek advice from the Commissioner concerning whether the disclosure should be referred to the Commissioner.
- Confidentiality:
  - Information gathered in the course of investigating disclosures, including the identity of the person making the disclosure, those alleged to have committed the wrongdoing and witnesses, are maintained in confidence and disclosed only
    - As necessary for this policy and to conduct the investigation in accordance with the principles of procedural fairness and natural justice.
    - In accordance with PIDA or any other statute.
    - The disclosure of that information is necessary due to an imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the environment.
- Reprisals:
  - The Commissioner has exclusive jurisdiction to receive and investigate complaints of reprisal. Employees who believe they have been the subject of a reprisal are directed to submit a “Complaint of Reprisal” form directly to the Commissioner. The complaint must be submitted in the prescribed form and is available on the Public Interest Commission’s website at [www.yourvoiceprotected.ca](http://www.yourvoiceprotected.ca). Employees who, in good faith, seek advice, make a disclosure, participate in an investigation of a disclosure, or refuse to participate in a wrongdoing are protected from adverse employment action under PIDA.
- Access to Information:
  - The *Freedom of Information and Protection of Privacy Act* (FOIPP) has been amended and now places restrictions on 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, or submitted a complaint of reprisal, or whose complaints have been referred to the Labour Relations Board, unless that information can reasonably be severed from a record.

**APPENDIX I  
PUBLIC INTEREST DISCLOSURE ACT  
Disclosure Form**

**GENERAL CONTACT INFORMATION:**

Full Name of Disclosing Employee: \_\_\_\_\_

Address: \_\_\_\_\_

Work Phone No.: \_\_\_\_\_ Home Phone No.: \_\_\_\_\_

Cell Phone No.: \_\_\_\_\_ Email: \_\_\_\_\_

**Best Time to Contact:**

- Day
- Evening
- Weekend

**Preferred Method of Contact:**

- Work Phone
- Home Phone
- Cell Phone
- Email

**INFORMATION ABOUT THE DISCLOSURE**

Use this area to describe, in as much detail as possible, all relevant dates, locations, people or organizations involved, and attach any supporting documentation.

Who is alleged to have committed (or is about to commit) the wrongdoing?

\_\_\_\_\_

Please describe the wrongdoing, including dates (attached additional pages and documents if necessary).

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**Has a disclosure in respect of the wrongdoing been made pursuant to the procedures established under Section 5 by the department, public entity or office of the Legislature, and has a response been received?**

- Yes
- No

**If you answered yes to the above, please attach a copy of the response.**

**Received by:** \_\_\_\_\_

**Date:** \_\_\_\_\_