

Protected Disclosure, Procedure for

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1 Purpose

This procedure outlines the process by which:

- a) individuals may make a Protected Disclosure;
- b) the University will respond to a Protected Disclosure; and
- c) individuals will be protected from Reprisals for making a Protected Disclosure.

2 Scope

This procedure applies to Protected Disclosures except Protected Disclosures involving allegations of breaches of the Research Integrity Policy, which will be dealt with under the Procedure for Investigating a Breach of Research Integrity. However, substantiated allegations of breaches of the Research Integrity Policy that are also breaches of the Act will be included in the Chief Officer’s annual report pursuant to this procedure.

3 Definitions

In this procedure:

- a) “Academic Staff Member” means an individual who is engaged to work for the University and is identified as an academic staff member under Article 1 of the collective agreement between the Faculty Association of the University of Calgary and the Governors of the University of Calgary in effect at the relevant time.
- b) “Act” means the Public Interest Disclosure (Whistleblower Protection) Act (Alberta).
- c) “Appointee” means an individual who is engaged to work for the University, or whose work is affiliated with the University, through a letter of appointment, including adjunct faculty, clinical appointments, and visiting researchers and scholars.
- d) “Business Days” means days that the University is open for business, excluding weekends and holiday closures.
- e) “Chief Officer” means the President of the University as set out in the Act.

- f) “Commissioner” means the Public Interest Commissioner of Alberta.
- g) “Complainant” means the person making a Protected Disclosure.
- h) “ConfidenceLine” means the external service provider established for receiving complaints under the Act.
- i) “Contractor” means an individual or a corporation or other entity who agrees to furnish materials to, or perform services for, the University for consideration.
- j) “Employee” means an individual, other than an Academic Staff Member or Appointee, who is engaged to work for the University under an employment contract.
- k) “Interference” means any direct or indirect action or use of authority to obstruct an individual’s right to make a Protected Disclosure.
- l) “Investigation Report” means 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.
- m) “Investigator” means the person or persons appointed by the Protected Disclosure Advisor to investigate a Protected Disclosure.
- n) “Postdoctoral Scholar” means an individual who has completed a doctoral degree and is carrying out research at the University under the direction or mentorship of a supervising Academic Staff Member.
- o) “Protected Disclosure” means any disclosure:
 - i. made pursuant to the Act;
 - ii. involving an allegation of a breach of the Code of Conduct; or
 - iii. involving an allegation of a breach of any other University policy where a Respondent is an Academic Staff Member, Appointee, Contractor, Volunteer or Postdoctoral Scholar.
- p) “Protected Disclosure Advisor” is the University’s designated officer pursuant to the Act who is responsible for:
 - i. receiving, screening, and preliminary analysis of Protected Disclosures;
 - ii. managing Protected Disclosures;
 - iii. selecting and mandating the Investigator; and
 - iv. reviewing the Investigation Report and making recommendations to the Chief Officer.
- q) “Reprisal” means Retaliatory Measures that are taken against an individual because the individual has sought advice about making a Protected Disclosure, made a Protected Disclosure in good faith, co-operated in an investigation of a Protected Disclosure, or declined to participate in behaviour that would breach University policy.
- r) “Respondent” means the Employee, Academic Staff Member, Appointee, Postdoctoral Scholar, Student, Contractor or Volunteer who is alleged to have breached the Act, the Code of Conduct or where applicable, other University policy.
- s) “Retaliatory Measures” include:

- 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 act that adversely affects the employment, working conditions, or education of the individual; and
 - iii. a threat to do any of the above.
- t) “Student” means an individual registered in a University course or program of study.
- u) “University” means the University of Calgary.
- v) “Volunteer” means an individual who, on a voluntary basis, provides a service or materials to the University.
- w) “Wrongdoing” means:
- i. a contravention of an Act of Parliament or of the legislature of Alberta, or of any regulations made under any such Act;
 - ii. an act or omission that creates:
 - 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 Academic Staff Member; or
 - 2. a substantial and specific danger to the environment.
 - iii. gross mismanagement of public funds or a public asset;
 - iv. a contravention of University policies;
 - v. knowingly directing or counseling an individual to commit a Wrongdoing mentioned in clauses (i) to (iv);
 - vi. Interference; and
 - vii. Reprisal.

4 Procedure

Making a Protected Disclosure

- 4.1** An individual may make a Protected Disclosure to any of the following:
- a) a manager, supervisor, or dean;
 - b) the Protected Disclosure Advisor, Email: disclose@ucalgary.ca;
 - c) the President of the University; or
 - d) the external service provider established for this purpose: *ConfidenceLine* (1-800-661-9675).
- 4.2** The Protected Disclosure should include the following information:
- a) the nature of the activity giving rise to the complaint;
 - b) a description of all parties involved;
 - c) any potential financial interests and rewards;
 - d) possible violations of law or University policy; and
 - e) any other information useful in evaluating the Protected Disclosure.
- 4.3** The Protected Disclosure may be submitted anonymously but the Complainant should be aware that this may limit the ability of the University to respond and investigate.

Receipt of a Protected Disclosure by a Manager, Supervisor, Dean or the President

- 4.4** An individual, other than the Protected Disclosure Advisor, who receives a Protected Disclosure will respond in writing within five (5) Business Days after receipt to acknowledge receipt of the Protected Disclosure.
- 4.5** The individual receiving the Protected Disclosure will record the details of the Protected Disclosure in writing, including:
- a) the date and time the disclosure was received;
 - b) the name of the Complainant (unless the Complainant has requested anonymity);
 - c) the name(s) of the Respondent; and
 - d) full details of the disclosure.
- 4.6** The individual receiving the Protected Disclosure will promptly refer the Protected Disclosure to the Protected Disclosure Advisor.

Receipt of a Protected Disclosure by the External Service Provider

- 4.7** A call assistant will answer a call to *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.
- 4.8** 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*.
- 4.9** The call assistant will create a report containing pertinent information about the Protected Disclosure. This information will be made available electronically to the Protected Disclosure Advisor.
- 4.10** The call assistant will provide the Complainant with information on whether the Protected Disclosure is being investigated if the Complainant calls back.

Receipt of a Protected Disclosure by the Protected Disclosure Advisor

- 4.11** If the Protected Disclosure has not yet been acknowledged, the Protected Disclosure Advisor will acknowledge receipt of the Protected Disclosure within five (5) Business Days after it is received by the Protected Disclosure Advisor.
- 4.12** The Protected Disclosure Advisor will review the following with the Complainant if the Complainant is not anonymous:
- a) this procedure;
 - b) potential alternative procedures for dealing with the matter;
 - c) confidentiality protections;
 - d) the record keeping process; and
 - e) the commitment of the University to protect the Complainant from Reprisal.
- 4.13** Within ten (10) Business Days of receipt of the Protected Disclosure by the Protected Disclosure Advisor, the Protected Disclosure Advisor will decide if:
- a) the disclosure should be dealt with as a Protected Disclosure of Wrongdoing;
 - b) the disclosure should be referred to an alternate process;

- c) the disclosure should be dismissed for being frivolous or vexatious or made in bad faith; or
- d) the disclosure should be dismissed for another valid reason.

4.14 Within the ten (10) Business Days of receipt of the Protected Disclosure by the Protected Disclosure Advisor, the Protected Disclosure Advisor will inform the *ConfidenceLine* or the Complainant, if the Complainant is not anonymous, of the decision and what the next steps are, if any.

4.15 The Protected Disclosure Advisor will refer the Protected Disclosure to the Commissioner as soon as reasonably practicable if the Protected Disclosure Advisor 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.

Protecting the Complainant

4.16 The Protected Disclosure Advisor may appoint an advocate for the Complainant to assist in managing the Complainant's welfare. The advocate will:

- a) examine the immediate welfare and protection needs of the Complainant;
- b) ensure the Complainant is aware of employee assistance programs or other supports;
- c) listen to any concerns of harassment or intimidation, or Reprisal for making a Protected Disclosure; and
- d) act as liaison and guide pertaining to the process.

Investigating a Protected Disclosure

4.17 The Protected Disclosure Advisor will appoint an Investigator to carry out the investigation. The Investigator may be an individual internal or external to the University or a committee. When the Protected Disclosure Advisor appoints a committee, the Protected Disclosure Advisor will appoint one member of the committee as chair.

4.18 The objectives of the investigation will be:

- a) to collect information relating to the allegation. This may involve steps to protect or preserve documents, materials and equipment and to interview witnesses;
- b) to consider the information collected and to draw conclusions objectively and impartially;
- c) to maintain procedural fairness in the treatment of the Complainant;
- d) Respondent and witnesses; and
- e) If applicable, to make recommendations arising from the conclusions drawn concerning non-disciplinary remedial or other appropriate action.

4.19 The Protected Disclosure Advisor will draw up terms of reference for the investigation of a Protected Disclosure and obtain authorization for those terms from General Counsel prior to appointing the Investigator.

4.20 The terms of reference will set a date, no later than 110 Business Days after the receipt of the Protected Disclosure, by which the Investigation Report is to be concluded and will describe the resources available to the Investigator to complete the investigation within the time allotted.

- 4.21** 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.
- 4.22** The terms of reference will require the Investigator to update the Protected Disclosure Advisor on the progress of the investigation who, in turn, will keep General Counsel informed of the progress.
- 4.23** The Investigator will prepare an investigation plan for approval by the Protected Disclosure Advisor. The plan will list the issues to be substantiated and describe the avenue of inquiry. The plan will ask the following questions:
- a) What is being alleged?
 - b) What are the possible findings or offenses?
 - c) What are the facts in issue?
 - d) How is the inquiry to be conducted?
 - e) What resources are required?
- 4.24** If the Complainant can be contacted, the Complainant will, at this point in the process, be:
- a) notified by the Investigator that they have been appointed to conduct the investigation;
 - b) asked to clarify any matters; and
 - c) asked to provide any additional material the Complainant might have.
- 4.25** 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 University will show consideration for the following precepts in ensuring procedural fairness:

- a) 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
- b) 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.

Conducting the Investigation

- 4.26** 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.
- 4.27** The Investigator will make notes of all discussions, phone calls, and interviews with witnesses.
- 4.28** 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.

- 4.29** The Protected Disclosure Advisor will advise the Complainant of the progress of the Investigation and whether the complaint was substantiated or not.

Final Report of the Investigator

- 4.30** When the Investigation is complete, the Investigator will submit a written investigation report to the Protected Disclosure Advisor. The report will include:
- a) the allegation;
 - b) an account of all relevant information received and, if the Investigator has rejected evidence as being unreliable, the reasons for this conclusion;
 - c) the conclusions reached and the basis for them; and
 - d) if the Investigator has found evidence of Wrongdoing, recommendations for non-disciplinary 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.
- 4.31** If the investigation has identified any other possible violations of the Act or University policy, the Investigator should include the possible violations in the report. The possible violations identified in the report will be dealt with by the Protected Disclosure Advisor in accordance with this procedure.
- 4.32** The report will be accompanied by all records created or received by the Investigator in the course of the investigation.
- 4.33** The report will not include information that leads or could lead to the identification of the Complainant if the Complainant has requested anonymity.

Outcome of the Investigation

- 4.34** If the Protected Disclosure Advisor is satisfied that the report brings the Investigation to an end, the Protected Disclosure Advisor will provide a report to General Counsel including:
- a) whether the Protected Disclosure was substantiated; and
 - b) recommendations for non-disciplinary corrective action.
- 4.35** If the Protected Disclosure included a violation of the Act, the Protected Disclosure Advisor will provide the report referred to in 4.34 to the Chief Officer.
- 4.36** If the complaint is substantiated, the Protected Disclosure Advisor will provide the relevant dean or manager with the report or a summary of the report's findings and recommendations.
- 4.37** In accordance with the Occupational Health and Safety Act (Alberta), if a workplace harassment Complaint has been substantiated, the university will notify the Complainant of the corrective action(s) the employer is taking to eliminate and prevent workplace hazards.
- 4.38** A Respondent who is found to have committed a breach of the Act or of University policy may be subject to disciplinary action up to and including termination of employment or other relationship with the University. Disciplinary action will be

taken in accordance with the provisions of any applicable collective agreement or any applicable policy relating to Student conduct.

Records

- 4.39** Records pertaining to a Protected Disclosure are the property of the University and will be retained in accordance with University document retention rules. Records will also be safeguarded to ensure confidentiality and, when applicable, the Complainant's anonymity.
- 4.40** The Protected Disclosure Advisor 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.

Chief Officer's Annual Report

- 4.41** The Chief Officer will prepare a report annually on all Protected Disclosures received which involve a violation of the Act. This report will include:
- a) the number of disclosures received by the Protected Disclosure Advisor 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 Protected Disclosure Advisor;
 - b) the number of investigations commenced by the Protected Disclosure Advisor as a result of Protected Disclosures involving violations of the Act; and
 - c) 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.
- 4.42** The annual report of the Chief Officer will be included in the annual report of the University and will be made publicly available upon request.

5	Parent Policy	Code of Conduct
6	Related Policies	Harassment Policy Fraud Policy
7	Related Information	https://www.ucalgary.ca/pdri
8	References	Public Interest Disclosure (Whistleblower Protection) Act , SA 2012, c P-39.5 Public Interest Disclosure (Whistleblower Protection) Regulation , Alta Reg 71/2013
9	History	February 10, 2005 Approved. March 1, 2006 Effective. December 3, 2015 Revised. May 15, 2018 Editorial Revision. July 1, 2019 Editorial Revision. Updated format. September 28, 2020 Editorial Revision. Added s.4.37.

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