

SAFE DISCLOSURE PROCEDURE

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

Functional Category:	Human Resources
Parent Policy:	Safe Disclosure Policy
Approval Date:	November 16, 2020
Effective Date:	November 16, 2020
Procedure Owner:	Vice President, People and Culture
Procedure Administrator:	Director, People and Talent Operations

Overview:

NorQuest College (college) is committed to providing a work environment that expects and promotes ethical behaviour in all aspects of college activities. This includes ensuring that employees can confidentially and without fear of reprisal, seek advice regarding the disclosure of an alleged wrongdoing, disclose an alleged wrongdoing or make a complaint regarding a reprisal as a result of one of these actions.

This procedure outlines the requirements of the college regarding the *Public Interest Disclosure (Whistleblower Protection) Act (PIDA)*.

Authority to establish this procedure is derived from the [NorQuest College Board of Governors Policy No. 5](#), which delegates authority to the President and CEO to establish policies and procedures for the college's management and operation.

Procedures:

The college encourages employees who reasonably believe that they have information that could show that a wrongdoing (as defined below) has been committed or is about to be committed, or that could show that they have been asked to commit a wrongdoing to confidentially disclose (report) that wrongdoing without risk of reprisal in accordance with PIDA and this procedure¹.

In this procedure **Wrongdoing**² 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:
 - 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
 - a substantial and specific danger to the environment.
- Gross mismanagement, including an act or omission that is deliberate and 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

¹ PIDA section 9(1)

² PIDA section 3

- 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;
- A wrongdoing prescribed in the regulations;
- Knowingly directing or counselling a person to commit a wrongdoing as mentioned above.

The reporting of other matters is to be handled in accordance with other procedures or processes established by the college. Examples of other matters includes:

- Code of Conduct and Respectful Workplace violations (other than wrongdoings),
- Performance management complaints, and
- Grievances initiated under the terms of a collective agreement.

Purposes of PIDA

The purposes of PIDA³ are:

- To facilitate the disclosure and investigation of significant and serious matters in or relating to department, public entities or offices of the Legislature, that an employee believes may be unlawful, dangerous to the public or injurious to the public interest.
- To protect employees who make disclosures.
- To manage, investigate and make recommendations respecting disclosures of wrongdoings and reprisals.
- To promote public confidence in the administration of departments, public entities and offices of the legislature.

Designated Officer⁴

The President and CEO⁵, has designated the Vice President, People and Culture as the designated officer for purposes of managing and investigating disclosures.

If a disclosure places the Vice President, People and Culture in a conflict of interest or perceived conflict position as described in the Code of Conduct Policy, the Vice President, People and Culture will transfer the disclosure to another employee who is not in a conflict of interest position and that the President and CEO considers appropriate⁶. That employee will then be responsible for managing and investigating the disclosure.

Disclosing a Wrongdoing

Confidentiality⁷

Information collected from an employee seeking advice regarding a disclosure or who has disclosed a wrongdoing, including information regarding any associated investigation, is to be kept confidential except:

³ PIDA section 2(2)

⁴ PIDA section 7(1)

⁵ PIDA Regulation section 2(2)

⁶ PIDA Regulation section 3(3)

⁷ PIDA section 5(2)(g & h)

- for matters which pose an imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the environment,
- where provisions of the *Freedom of Information and Protection of Privacy Act* apply, or
- as required by other legislation.

The following will be utilized to guide actions that affect confidentiality:

- Employees responsible for providing advice regarding a disclosure, and receiving, investigating and reporting of disclosures may only share information with those who need the information to do their jobs.
- When information is shared, it is to be kept to the minimum amount necessary for the required purpose.

The information that is to be kept confidential includes:

- The identity of individuals who have submitted a disclosure.
- The identity of individuals alleged to have committed a wrongdoing.
- The identity of witnesses associated with an investigation.
- Any information collected relating to the disclosure.
- Any details or results of the investigation.

Requesting Information or Advice⁸

An employee who is considering making a disclosure may request information or advice from:

- their Supervisor
- Vice President People and Culture (designated officer),
- the President and CEO (chief officer), or
- the Public Interest Commissioner.

The supervisor, designated officer, the chief officer or the Commissioner may require an information request to be in writing.

To request information or advice please contact the respective offices:

Office of the Vice President, People and Culture:

- 780-644-6175
- or by email at whistleblowerHR@norquest.ca

Office of the President and CEO at:

- 780-644-5908
- or by email at whistleblowerPRES@norquest.ca

The Office of the Public Interest Commissioner can be contacted

- Toll-free province-wide: 1-855-641-8659, Monday – Friday, 08:15-12:00/13:00 – 16:30
- or by email at info@pic.alberta.ca

Disclosing a Wrongdoing to the College⁹

Employees who reasonably believe that they have information that could show that a wrongdoing has been committed or is about to be committed, or that could show that they have been asked to commit a wrongdoing, are encouraged to promptly disclose (report) that wrongdoing to the Vice President, People and Culture using the [Policy Complaint / Public Interest Disclosure Report Form](#).

⁸ PIDA section 8

⁹ PIDA section 9

The employee may make a disclosure of wrongdoing directly to the Office of the Public Interest Commissioner using the online web-form available at 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 at 1-855-641-8659.

Disclosing a Wrongdoing to the Commissioner¹⁰

An employee, may only disclose a wrongdoing or potential wrongdoing directly to the Commissioner:

- If the employee has made an internal disclosure and an investigation has not been completed in accordance with the written procedures.
- If the employee has made an internal disclosure and the matter has not been resolved within the defined timeframes.
- If the employee is dissatisfied with the decision rendered after the investigation and final decision of the internal disclosure.
- If the internal disclosure involves the President and CEO or the Vice President, People and Culture.
- If the employee has made a disclosure to the Vice President, People and Culture and a reprisal has been directed against the employee or the employee believes reprisal will be taken against them should a disclosure be made.

Contents of the Disclosure¹¹

A disclosure of wrongdoings submitted to the Vice President, People and Culture shall be in writing and include, at a minimum, the following information:

- A description of the wrongdoing.
- The name of the individual or individuals alleged to have committed the wrongdoing, or to be about to commit the wrongdoing.
- The date of the wrongdoing;
- Whether a disclosure of this wrongdoing has previously been made and whether a response was received. If a response was received, a copy of the response must be attached.
- Any additional information that the Vice President, People and Culture or Commissioner may reasonably require in order to investigate the matters set out in the disclosure.

Disclosures may be submitted anonymously. It is recommended, however, that the employee reporting the wrongdoing provide their name and contact information so that if needed, it is possible to obtain clarification regarding the wrongdoing and so that the employee may be advised of whether an investigation will be conducted and the progress and results if the investigation is conducted.

Please use the [Policy Complaint / Public Interest Disclosure Report Form](#) when reporting a wrongdoing.

Receiving Disclosures

- Any employee receiving a disclosure of a wrongdoing is to immediately forward the disclosure to the Vice President, People and Culture.
- The Vice President, People and Culture shall, within five (5) business days of receiving a disclosure of wrongdoing, acknowledge

¹⁰ PIDA section 15.1

¹¹ PIDA section 13

receipt to the employee making the disclosure¹² except where the disclosure has been made anonymously.

Review and Investigation of Disclosures¹³

The review and investigation of disclosures will be in accordance with the principles of procedural fairness and natural justice¹⁴.

Review of the Disclosure

The Vice President, People and Culture will conduct a review of the disclosure within 20 days of the receipt of the disclosure, determine the action and advise the employee, if not anonymous, who made the disclosure as follows¹⁵:

- that the disclosure has been or will be referred to the Commissioner, another public entity, a department of the Alberta Government or Office of the Legislature if it would be more appropriately dealt with by that body,
- that the disclosure has insufficient information,
- that the disclosure does not fall within the scope of this procedure,
- that the disclosure will be investigated, or
- that the disclosure will not be investigated.

The Vice President, People and Culture, can extend the time limit for the management of disclosures to a maximum of the 30 business days. Further extensions can only be granted by the commissioner. ¹⁶

The Vice President, People and Culture will consider all relevant factors including the following considerations when determining if an investigation is warranted:

- Has the complaint been made in bad faith, is frivolous or vexatious
- Has the complaint been made in a timely manner to permit investigation
- Which laws or policies are involved
- The seriousness of the allegation
- The impact of the issue on stakeholders and operations
- Who is involved
- Does the disclosure deal with wrongdoing as defined in PIDA
- Availability of evidence

The response to the employee, if not anonymous, who made the disclosure will include the rationale for the decision where appropriate.

Where insufficient information was received with the disclosure, the Vice President, People and Culture will seek additional necessary information from the employee who submitted the disclosure. Action to proceed with an investigation will depend on the nature of the additional information or whether additional information has been provided.

¹² PIDA Regulation section 3(7)(a)

¹³ PIDA section 5(2)(a)

¹⁴ PIDA section 5(2)(d)

¹⁵ PIDA Regulation section 3(7)(b)

¹⁶ PIDA Regulation section 5(1)

The Vice President, People and Culture may at any time consult with and request advice from the President and CEO and/or Commissioner regarding the management and investigation of the disclosure¹⁷.

Referring a Disclosure

The Vice President, People and Culture must, as soon as reasonably practical, refer any wrongdoing directly to the Commissioner if it is reasonably believed 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.

Report of a Disclosure to the President and CEO

The Vice President, People and Culture must, as soon as practical, report the existence of a wrongdoing relating to an employee of the college to the President and CEO unless that wrongdoing implicates the President and CEO. If the issue implicates the President and CEO the case must be reported to the Chair, Board Governance Committee.

Disclosures involving a possible offence or an imminent risk

If the President, the Vice President, People and Culture or during an investigation, the Commissioner has reason to believe that an offence has been committed under an Act or regulation or under an Act or regulation of the Parliament of Canada, that person must, as soon as reasonably practical, report the alleged offence to a law enforcement agency and the Minister of Justice and Solicitor General.

If the President, the Vice President, People and Culture or the Commissioner reasonably believes that the disclosure could constitute an imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the environment, that person must disclose the matter:

- To an appropriate law enforcement agency
- In the case of a health-related matter, to the Chief Medical Officer of Health appointed under section 13 of the *Public Health Act*,
- To the department, public entity, office or prescribed service provider responsible for managing, controlling or containing the risk, if any.

Investigation of a Wrongdoing

The Vice President, People and Culture will establish an investigative team that will be responsible for reviewing the disclosure and rendering a decision.

If any member of the proposed investigative team is in a conflict of interest or perceived conflict position as described in the Code of Conduct Policy, that person will disclose the conflict of interest and not participate in the investigation. The Vice President, People and Culture will select another employee who is not in a conflict of interest position to participate on the investigative team.¹⁸

¹⁷ PIDA section 14(1 & 2)

¹⁸ PIDA Regulation section 3(3)

Where more than one disclosure is made on the same matter, a single investigation may be conducted rather than conducting separate investigations¹⁹.

If during the investigation of a wrongdoing, the Vice President, People and Culture has reason to believe that another or other wrongdoings have occurred, another investigation or investigations will be initiated utilizing these procedures²⁰.

Investigative Team Composition

- The Investigative Team is to include up to three members at a professional or managerial level selected by the Vice President, People and Culture.
- No member of the Investigative Team shall be from the portfolio in which the incident is alleged to have taken place.
- The Vice President, People and Culture may also decide to use an external investigator.

Investigation

- The Investigative Team will advise the employee who is suspected of committing a wrongdoing about the complaint and its particulars and invite the respondent to respond to the evidence in writing before any decision is made by the Investigative Team.
 - Information provided to this employee is subject to the *Freedom of Information and Protection of Privacy Act*.
- An employee who is suspected of wrongdoing shall be presumed innocent unless the evidence proves otherwise.
 - In some circumstances suspension of the employee may be required while the investigation is undertaken.
- An employee who is suspected of wrongdoing shall be requested to cooperate with an investigation carried out under the terms of this procedure.
- The Investigative Team will have the authority to examine, copy, and/or secure the contents of files, desks, cabinets, computer disks or other storage devices and other storage facilities on NorQuest College premises without the consent of any individual where reasonably necessary for the purposes of the investigation.
- The Investigative Team will have the authority to interview any other employee to assist in information gathering.

Decision of the Investigative Team

- When the Investigative Team completes its investigation, it will submit a final report to the President and CEO or to the Chair, Board Governance Committee as appropriate.
- The report will, where appropriate, include recommendations on corrective actions²¹.
- The Vice President, People and Culture will ensure that the investigation and written report shall be completed within 120 business days from the date in which the disclosure was received²².
- In the event of disclosure directly to the Commissioner, the Commissioner shall complete a full investigation of the disclosure

¹⁹ PIDA Regulation section 3(6)

²⁰ PIDA section 20(1)

²¹ PIDA section 22(1)(b)

²² PIDA Regulations section 3(7)(c)

and recommend corrective measures to be taken by NorQuest College.

- The Vice President, People and Culture will review the recommended corrective measures and ensure that all recommendations are appropriately addressed in a timely manner.
- The college will attempt to recover any losses incurred through an act of wrongdoing.
- An employee who makes allegations of wrongdoing which are proven to be an allegation in bad faith shall be subject to disciplinary action up to and including termination, in a manner consistent with their existing terms of employment, collective agreements and Code of Conduct. This is in addition to and separate from any penalty provided for by law.
- If an employee is proven to have committed an act of wrongdoing, information relating to the offence will be placed on the individual's personnel file.

Protection from Reprisal

It is contrary to the values of the college for anyone to take, threaten to take, or direct any reprisal measures against any employee who, in good faith, has sought advice regarding reporting an alleged wrongdoing, reports an alleged wrongdoing, cooperated in an investigation, declined to participate in a wrongdoing or done anything in accordance with PIDA.

For purposes of PIDA, reprisal measures²³ include:

- 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,
- any other measure that adversely affects the employee's employment or working conditions, or
- a threat to take any of the measures mentioned above.

Reporting an Alleged Reprisal^{24,25}

An employee who wishes to report an alleged reprisal must do so directly to the Commissioner by completing, signing and submitting a **Complaint of Reprisal Form** and submitting it to the Alberta Public Interest Commissioner. If, following an investigation, the Commissioner finds that a reprisal has occurred, the Commissioner is obligated to refer the decision to the Labour Relations Board for determination as to the appropriate remedy, which may include prosecution and financial restitution from the college and/or Manager.

The form, instructions on how to submit the form and a contact for questions are located on the Public Interest Commissioners' website: <https://yourvoiceprotected.ca/for-employees/reprisal-form/>.

Public Reporting²⁶

- The Vice President, People and Culture will track and annually compile information regarding all disclosures received by the college, including:
 - the number of disclosures received,

²³ PIDA section 24(2)

²⁴ PIDA section 25

²⁵ PIDA Regulation section 3(2)

²⁶ PIDA section 32

- the number of disclosures acted on,
 - the number of disclosures not acted on,
 - the number of investigations commenced as a result of disclosures, and
 - in the case of an investigation that results in a finding of wrongdoing, a description of the wrongdoing and any recommendations made or corrective measures taken in relation to the wrongdoing or the reasons why no corrective measure was taken.
- The Vice President, People and Culture will annually provide a written report to the President and CEO on all disclosures that have been received by the college and include in that report the information noted above as well as outcomes. The content of this report will be put in the NorQuest College Annual Report²⁷.
 - The Vice President, People and Culture, will not publicly identify in their annual report an employee who sought advice, made a disclosure or made a complaint of reprisal and will not identify individuals alleged to have committed the wrongdoings and/or witnesses nor the disclosure of individually identifying health information as per the principles of procedural fairness and natural justice.

Definitions:

Allegation in Bad Faith: means purposely making a false allegation.

Commissioner: the Public Interest Commissioner as appointed under section 38 of the *Public Interest Disclosure (Whistleblower Protection) Act* to carry out the duties and functions as set forth in the Act.

Designated Officer: the senior official designated by each chief officer to manage and investigate disclosures under this Act.

Disclosure²⁸: except where the context requires otherwise, means a disclosure of wrongdoing made in good faith by an employee in accordance with these procedures. (These procedures reflect the requirements of the *Public Interest Disclosure (Whistleblower Protection) Act*.)

Employee: includes a person who is engaged by NorQuest College to perform a service in accordance with existing terms and conditions of employment, employment contracts or collective agreements.

In Good Faith: means taking action based on objective evidence with honest and good intention.

Wrongdoing²⁹ 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:
 - 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
 - a substantial and specific danger to the environment.

²⁷ PIDA section 32(3)

²⁸ PIDA section 1(f)

²⁹ PIDA section 3

Related NorQuest College Information:
Related External Information:
Next Review Date:
Revision History:

- Gross mismanagement, including an act or omission that is deliberate and 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;
- A wrongdoing prescribed in the regulations;
- Knowingly directing or counselling a person to commit a wrongdoing as mentioned above.

- [Code of Conduct Policy](#)
- [Code of Conduct Policy & Respectful Workplace & Learning Environment Policy Complaints & Investigation Procedure](#)
- [Policy Complaint / Public Interest Disclosure Report Form](#)
- [Safe Disclosure Policy](#)
- [Security Incident and Criminal Activity Reporting and Investigations Procedure](#)

- [Alberta Public Interest Commissioner Website](#)
- [Freedom of Information and Protection of Privacy Act](#)
- [Policy Complaint / Public Interest Disclosure Report Form](#)
- [Public Interest Disclosure \(Whistleblower Protection\) Act](#)
- [Public Interest Disclosure \(Whistleblower Protection\) Regulation](#)

April 2024

June 2014: new
 July 2015: annual review - no changes
 July 2015: update for document links
 May 2016: annual review - no changes
 May 2017: annual review - no changes
 May 2018: updates to the Procedure based on the *Public Interest Disclosure (Whistleblower Protection) Amendment Act, 2017* and change to owner/administrator; Procedure formerly called Public Interest Disclosure (Whistleblower Protection) Procedure.
 August 2019: Compliance Office template & reorganization update
 August 2019: annual review update and reference to 20 day review
 September 2020: annual review – update to procedure owner (designated officer), procedure administrator, updated footnotes and next review date to align with policy.