

#1365989

**Public Interest Disclosure
(Whistleblower Protection) Act (PIDA)**

Roles and Responsibilities

Employees of the Division may seek advice or disclose a wrongdoing to their supervisor, the designated officer (Superintendent/CEO or designate) or the Manitoba Ombudsman. Disclosures must be in writing and should include the following information, if known:

- a description of the wrongdoing
- the name of the alleged wrongdoer(s)
- the date of the wrongdoing
- whether the wrongdoing has already been disclosed and a response received`

Disclosures should be made as soon as possible following knowledge of the wrongdoing so an investigation and corrective action may be taken expeditiously.

An anonymous disclosure may be made however, it can be difficult to investigate without being able to confirm details.

Disclosure regarding a suspected wrongdoing against a senior staff member or trustee may be made directly to the Superintendent/CEO or designate. Disclosure involving the Superintendent/CEO or Secretary-Treasurer/CFO may be made directly to the Manitoba Ombudsman.

If seeking advice about PIDA or to make a disclosure directly to the Manitoba Ombudsman, procedures may be found on their website at ombudsman.mb.ca.

Complaint Process

Division employees are encouraged to discuss the complaint with their immediate supervisor and seek guidance as required. If the employee is not satisfied with the response, or not comfortable discussing it with his or her supervisor, they are encouraged to address the matter directly with the Superintendent/CEO or designate or Manitoba Ombudsman. Supervisors are

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required to report any disclosure of suspected wrongdoing to the Superintendent/CEO or designate.

All disclosures of wrongdoing must be submitted in writing; employees are encouraged to utilize Division Form GBKA-E-1 to outline their complaint. The Superintendent/CEO or designate will acknowledge receipt of the complaint within five days and conclude the investigation as soon as practically possible while providing updates on the status of the investigation to the disclosing employee as necessary. Principles of procedural fairness and natural justice apply to the disclosure(s), witnesses, and alleged wrongdoer(s).

The alleged wrongdoer has the right to know the nature of the disclosure and be given the opportunity to respond to the allegations.

Employees are expected to fully cooperate in an investigation. The Superintendent/CEO or designate can require an employee to produce records in their possession or under their control that may be relevant to the investigation and require an employee to be interviewed for the purpose of the investigation. Those involved in handling or participating in the disclosure investigation are responsible for ensuring confidentiality of information received.

PIDA requires everyone involved in the investigation to protect the identity of the whistleblower.

The Superintendent/CEO or designate must recuse themselves where there may be a bias or conflict of interest.

At the conclusion of the investigation, the Superintendent/CEO or designate must prepare a report outlining the allegations, whether the investigation found wrongdoing and provide any recommendations or corrective action. The Board of Trustees will be provided a copy of the report.

The Superintendent/CEO or designate must inform the employee who made the disclosure of the results of the investigation while ensuring confidentiality.

Decision Not To Investigate Disclosure

PIDA outlines several situations where an investigation may not occur as follows:

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- the subject matter of the disclosure could more appropriately be dealt with, initially or completely, according to a procedure not provided for under the act
- the disclosure is frivolous or vexatious, or has not been made in good faith or does not deal with a sufficiently serious subject matter
- so much time has elapsed between the date when the subject matter of the disclosure arose and the date when the disclosure was made that investigating it would not serve a useful purpose
- the disclosure relates to a matter that results in a balanced and informed decision-making process on a public policy or operational issue
- the disclosure does not provide adequate particulars about the wrongdoing as required by the act
- the disclosure relates to a matter that could more appropriately be dealt with according to the procedures under a collective agreement or employment agreement

The discloser will be informed if a decision is made not to investigate or to cease an investigation, and the reason why. The discloser may still make a disclosure to the Manitoba Ombudsman.

There may be circumstances (e.g. conflict of interest or perceived conflict of interest) where the Superintendent/CEO or designate will refer the disclosure to the Manitoba Ombudsman. The discloser will be informed if a referral is made.

Protection From Reprisal

PIDA protects employees from reprisal who have, in good faith:

- requested advice about making a disclosure from a supervisor, Superintendent/CEO or designate or the Manitoba Ombudsman
- made a disclosure under PIDA
- cooperated in an investigation under PIDA

A reprisal is defined as taking, directing or counselling someone to take or direct:

- a disciplinary measure
- a demotion
- termination of employment
- any measure that adversely affects his or her employment or working condition
- a threat to take any of the measures listed above

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A reprisal is an offence under PIDA and anyone who reprises against an employee is liable to prosecution under PIDA.

A Division employee or former employee who believes they have been reprised against must make a written complaint of reprisal directly to the Manitoba Ombudsman.

Annual Reporting Requirements

The Superintendent/CEO or designate must prepare on an annual basis a report of any disclosures of wrongdoing for which the designated officer is responsible. The report must include the number of disclosures received, number of investigations commenced and findings of any wrongdoings and any corrective action that may have been taken. The report will be included in the annual report and where one is not published, the information will be available to the public on request. For privacy reasons, no identifying information will be contained in the report.

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