

2.0. Human Resources

2.A. Foundations

2.A. Public Interest Disclosure

Adopted: September 24, 2019

Reviewed by Committee:

Policy Reference: EL-1, EL-1.1, EL-1.2

Purpose : As a Manitoba public school division, Lakeshore School Division is obligated to comply with the provisions of The Public Interest Disclosure Act and provincial guidelines governing the implementation of said Act. The purpose of *The Public Interest Disclosure Act* , also known as *The Whistleblower Act* is to facilitate the disclosure and investigation of significant and serious matters in or relating to the public service, that are potentially unlawful, dangerous to the public or injurious to the public interest. It is further developed to protect persons who make those disclosures. This Procedure is intended for all trustees, staff and volunteers on the premises and in Lakeshore School Division facilities, as well as for all activities related to Lakeshore School Division.

Intent: The intent of The Public Interest Disclosure Act is to protect individuals who report certain "wrongdoing" as:

- (a) acts or omissions that constitute an offence under an Act of the Legislative Assembly, a federal Act or a regulation made under that Act;
- (b) causing - by action or omission - a serious and specific risk to the life, health or safety of persons or the environment, with the exception of the risk inherent in the exercise of the powers of an employee;
- (c) serious cases of mismanagement, including mismanagement of funds or public property;
- (d) knowingly directing or advising a person to do any of the wrongdoing referred to in paragraphs (a) to (c).

Definitions:

- “Chief Executive” means, in relation to a school division, the Superintendent of the Division;
- “Employee” means an employee or officer of a department, government body or office,
- “Ombudsman” means the ombudsman appointed under the Ombudsman Act,
- “Designated Officer” is a senior official, designated by the Superintendent, for the purposes of the Act, to receive and deal with disclosures by employees in the Division.
- “Wrongdoing” is defined as:
 - a) an act or omission constituting an offence under the Act or a regulation under the Act.

- b) An act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of the employee;
- c) Gross mismanagement, including of public funds or a public asset;
- d) Knowingly directing or counselling a person to commit a wrongdoing described in clauses a) to c).
- “Reprisal” means any of the following measures taken against an employee because the employee, in good faith, sought advice about making a disclosure, made a disclosure, or co-operated in an investigation under the Act:
 - a) A disciplinary measure;
 - b) A demotion;
 - c) Termination of employment;
 - d) Any measure that adversely affects their employment or working conditions;
 - e) A threat to take any of the measures referred to in clauses a) to d).

Guidelines:

1. Responsibilities of the Superintendent’s Office:

The Superintendent appoints a senior officer as a Designated Officer for the purposes of this Act. The designated officer is the Director of Human Resources.

The Designated Officer will ensure that all employees of Lakeshore School Division are informed of the Policy and Procedures surrounding this Act and that the rules and processes regarding this Act are disseminated on an annual basis to all Lakeshore School Division employees.

2. The Designated Officer and the Investigative Authority

The Designated Officer is responsible for investigating disclosures made directly to them by any Lakeshore School Division employee or senior employee. The Designated Officer may consult with the Ombudsman, the appropriate Manitoba School Board Association advisor and any other person who should be involved in the process or management of an investigation. Under the Act, the investigator has the power to compel an employee to produce documents and to be questioned as part of an investigation.

3. The treatment of disclosures and procedural rights

The supervisor to whom an employee makes a disclosure must refer the matter promptly to the Designated Officer. The Designated Officer is responsible for investigating any disclosure of "wrongdoing" as defined by The Public Interest Disclosure Act, Lakeshore School Division Policy and the guidelines applicable under this Administrative Procedure.

The Designated Officer and any other person involved in the management of a disclosure is under an obligation to take reasonable steps to protect the identity of the employee making a disclosure, the accused, and any witnesses.

The Designated Officer must take reasonable steps to protect the procedural rights of the persons participating in the investigation and, at any point in the investigation may request the attendance of the employee's bargaining agent or their labour representative.

1. Preliminary Review

The Designated Officer, during preliminary review, will assess the validity of the claim and determine if the investigation will proceed through the official process. The Designated Officer will advise the Superintendent, if appropriate, as to whether, in their judgement, the investigation should proceed.

2. Decision Not To Investigate

The Designated Officer may decide not to investigate a disclosure if he or she concludes that the disclosure is not consistent with the definition of wrongdoing under the Act or that the disclosure is vexatious and unfounded.

3. Investigative Results

The Designated Officer, in consultation with the Ombudsman if necessary, determines how investigative results are communicated to the disclosures of wrongdoing.

4. Complaint of Reprisal

If the Designated Officer receives a complaint of reprisal for disclosure, the complaint must be submitted to the Ombudsman.

Adapted with Permission from Hanover School Division