



DISCLOSURE PROTECTION PROCEDURE

SECTION HUMAN RESOURCES	DATE DRAFTED September 15, 2013
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	LATEST REVISION
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INTENT

Members of the Alberta College of Art + Design (ACAD) community shall, at all times, conduct themselves in a manner that serves the best interests of the college, demonstrates respect for the college's Vision, Mission, Values and Mandate, and brings credibility and goodwill to the institution. ACAD is committed to the highest standards of ethical conduct in the workplace and will foster and maintain an environment where employees can work safely and appropriately, without fear of retaliation. As such ACAD is committed to protecting all members of its community who expose possible wrongdoing within the college that they feel is unlawful, dangerous to the public or harmful to the public interest without fear of retaliation or negative impact on their employment status..

The purpose of this Procedure is to:

- a) provide a disclosure mechanism by which officers, students, faculty, staff, and Board members can disclose wrongdoing;
- b) provide protection for officers, students and employees who in good faith disclose wrongdoing within the college;
- c) reflect the college's commitment to ensure transparency, accountability, and ethical conduct of its officers, students and faculty and staff; and
- d) affirm that it is in the public's best interests to maintain and enhance public confidence in the integrity of the college, its governors, officers, students, faculty and staff.

DEFINITIONS

PIDA means the Provincial Public Interest Disclosure (Whistleblower Protection) Act (the "Act") of the Province of Alberta.

Chief Officer refers to the President + CEO of the College.

Chair means the Chair of the ACAD Board of Governors.

Designated Officer refers to the Director, Human Resources as designated by the Chief Officer, to

manage and investigate disclosures under the PIDA.

Alternate Designated Officer refers to the Vice President, Finance & Corporate Services as designated by the Chief Officer.

Employee refers to any individual employed with ACAD, inclusive of contracted employees.

Whistleblowing refers to reporting possible wrongdoing.

Protected Disclosure means any disclosure that is not frivolous, vexatious or made in bad faith and is made by an officer, student, faculty member and/or staff member under this Procedure and in the course of their work, studies or official duties at the College concerning an actual or perceived wrongdoing.

Interference means direct or indirect action or use of authority to obstruct an individual's right to make a Protected Disclosure.

Members mean committee members, faculty, staff, officers and students of the College.

Officers mean staff charged with the administration of the College.

Complainant means any person that submits a complaint or report of wrongdoing.

Respondent means any person who's alleged conduct is the subject of a complaint.

Commissioner means the Public Interest Commissioner as appointed under section 38 of the Act to carry out the duties and functions as set forth in the Act

Reprisal means any adverse employment action taken against an officer, committee member, student, faculty member or staff member of the College because he or she 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 the Act including:

- i. disciplinary action;
- ii. demotion of or failure to promote the person;
- iii. termination of employment;
- iv. any act that adversely affects the employment or learning conditions of the person; and/or
- v. a threat to do any of the above.

Wrongdoing means:

- i. the contravention of College policies, procedures or relevant laws;
- ii. misuse of public funds, assets or resources;
- iii. mismanagement of public funds or a public asset;
- iv. an act or omission that creates a substantial and specific danger to the life, health or safety of persons or to the environment;
- v. a serious breach of a code of conduct;
- vi. interference;

- vii. directing or counseling an individual to commit a wrongdoing; and/or
- viii. an act of reprisal.

Imminent risk means a situation that requires immediate attention as it could pose a significant risk to public health or safety, or a danger to the environment (e.g. meningitis, Norwalk virus, or an oil or gas leak).

SCOPE

This Procedure applies to all Members and is in addition to, but does not replace, modify or revoke, in any way, the individual rights guaranteed by law, contract or code of professional ethics, as applicable. For the purpose of clarity, nothing in this Procedure limits, modifies or amends the provisions of any collective agreement that the College has entered into with their employees. This procedure has been adopted to ensure that all employees understand that they may report any wrongdoing that may adversely impact ACAD, ACAD's students, faculty, staff, community members or the public at large without fear of retaliation or a negative impact on their employment or scholastic status at ACAD.

This procedure is consistent with ACAD's Code of Conduct and Whistleblower Policy and the Public Interest Disclosure Act (PIDA).

PRINCIPLES

1. It is the duty of all officers, committee members, students, faculty or staff of the College to disclose any Wrongdoing on a timely basis.
2. All College officers, committee members, students, faculty or staff should be aware of and alert to this procedures for oral or written, formal or informal communications that may constitute a Protected Disclosure.
3. All complaints will be promptly and thoroughly reviewed within the timelines established by the Act and considered for investigation. All information disclosed during the course of the investigation will remain confidential, except as necessary to conduct the investigation and to take any remedial action, in accordance with applicable law.
4. All Members including complainants have a duty to cooperate in the investigation of reports of possible Wrongdoing or of possible reprisals resulting from the reporting or investigation of such matter.
5. The College's Designated Officer has the right to refuse to deal with a Protected Disclosure if, in her or his opinion, and as stipulated in this Procedure, there are valid reasons for this decision.
6. ACAD strictly prohibits any and all forms of reprisals against any Member or a complainant

who reports incidents of possible Wrongdoing, based on such Member's or complainant's reasonable belief that he or she has information that could show that a possible Wrongdoing has been committed, or is about to be committed, or that could show that such Member or complainant has been asked to commit a possible Wrongdoing.

7. The College also strictly prohibits any and all forms of reprisals against any Member or a complainant who participates in an investigation of complaints about a possible Wrongdoing.
8. Any disclosure of possible Wrongdoings or a complaint of reprisal found to be in bad faith or in contravention of this Procedure shall be subject to appropriate disciplinary action, up to and including termination of employment or contract, as applicable. In addition, a Member shall be subject to disciplinary action, up to and including the termination of their employment or contract, as applicable, if the Member fails to cooperate in an investigation, or deliberately provides false information during an investigation.
9. Nothing in this Procedure is intended to prevent a Member or a complainant from reporting information directly to the appropriate governmental agency, such as to the Public Interest Disclosure Commissioner relating to the Act, when the Member or the complainant has reasonable cause to believe that the violation of a federal or provincial statute or regulation has occurred.
10. Information about a Protected Disclosure or a complaint of reprisal will be shared only with those who have a legitimate need for the information.

PROCEDURES

Disclosure Reporting

1. When a Member reasonably believes that:
 - a) he/she has information that could show that a possible Wrongdoing has been committed or is about to be committed, or
 - b) he/she could show that such Member has been asked to commit a possible Wrongdoing, he/she must immediately raise and report those concerns. .
2. Member concerns would normally be raised internally to the Designated Officer, or in his or her absence to the Alternate Designated Officer. For situations where a member does not wish to communicate with the Designated Officer or Alternate Designated Officer, the member may report their concern directly to the Chief Officer in a sealed envelope labeled "To be opened by the President + CEO only."
3. In addition to disclosure to the Designated Officer, members who identify a wrongdoing on matters that involve an imminent risk are required to disclose directly to the Commissioner;

who may, at his or her discretion, conduct an investigation or refer the matter for review and follow up with the appropriate law enforcement, or public health authorities.

4. In a member's report on disclosure:
 - a) If a member has reason to believe that he/she has become aware of a possible Wrongdoing that has been committed, or is about to be committed by the Designated Officer, or could show that he/she has been asked to commit a possible Wrongdoing by the Designated Officer, he/she must immediately report those facts in writing to the Alternate Designated Officer in a sealed envelope labelled "To be opened by the Vice President, Finance + Corporate Services only"
 - b) If a member has become aware of a possible wrongdoing that has been committed or is about to be committed by the Alternate Designated Officer or could show that he/she has been asked to commit a possible Wrongdoing by the Alternate Designated Officer he/she must immediately report those facts to the Chief Officer in a sealed envelope labelled "To be opened by the President + CEO only".
 - c) If a member has become aware of a possible wrongdoing that has been committed or is about to be committed by the Chief Officer or could show that he/she has been asked to commit a possible Wrongdoing by the Chief Officer, the member must immediately report those facts in writing to the Chair in a sealed envelope labelled, "To be opened by the Chair of the Board of Governors only."
 - d) In making a disclosure, Members and complainants are encouraged to identify themselves; anonymous disclosures may limit the ability of an investigator to determine the exact nature of the alleged Wrongdoing, and may limit the College's ability to investigate the reported matter. A Protected Disclosure may, however, be submitted anonymously, including those disclosures that may be made directly to the Public Interest Commissioner. If a Member or a complainant wishes to remain anonymous, such Member or complainant in their written communication to the Designated Officer or the Chair, as applicable, should clearly indicate so. Anonymity of these disclosures is protected throughout the process of assessment and investigation as required.
5. In a member's disclosure he/she must include the following information, when known:
 - a) a description including the activity or activities involved in the alleged Wrongdoing;
 - b) the name of the individual or individuals alleged to have either committed the possible Wrongdoing, or is about to commit the possible Wrongdoing;
 - c) the date of the possible Wrongdoing;
 - d) an explanation of any perceived risk(s) to the College;
 - e) an explanation of any perceived financial interests or rewards;
 - f) an explanation of any perceived or suspected violations of relevant laws; and
 - g) any other information that may be helpful to the Designated Officer or the Chair, as applicable, to properly understand and evaluate the allegation of possible Wrongdoing.
6. Any complaint that a Member or a complainant has been subject to a reprisal related to the reporting or investigation of a possible Wrongdoing will be promptly and thoroughly reviewed within the timelines established by the Act and considered for investigation and if a

complaint of reprisal is substantiated, appropriate disciplinary action, including termination of employment, will be taken.

7. If a member later believes that he/she has been subject to any reprisal for having made a report under this Procedure, he/she must immediately report those facts to the appropriate Officer, as applicable. It is imperative that the member bring the matter to the College Executive's attention promptly so that any concern of reprisals can be investigated and addressed promptly within the proper timelines.
8. In a member's report regarding possible reprisal, the following information should be included:
 - a) a brief description of the possible Wrongdoing the member made or participated in, with all relevant dates, locations, etc.;
 - b) a description of the reprisal including the threat of reprisal that has occurred or is occurring. Please include all relevant dates, locations, etc.; and
 - c) any additional information of the complaint of reprisal that the member wishes to provide to the Officer or Chair, as applicable.

Disclosure Acknowledgement and Preliminary Assessment

1. The Officer or the Chair, as applicable, upon receipt of a Protected Disclosure or a complaint of reprisal will respond in writing within no more than five (5) business days to acknowledge receipt of the Protected Disclosure or the complaint of reprisal. The Officer or the Chair, as applicable, managing the Protected Disclosure or the complaint of reprisal will record the details of the Protected Disclosure or the complaint of reprisal in writing which will include the following:
 - a) the date and time the Protected Disclosure or the complaint of reprisal was received;
 - b) the name of the Member or the complainant making the Protected Disclosure (unless the person has filed the complaint with anonymity);
 - c) the name of the Member or the complainant making the complaint of reprisal;
 - d) the name(s) of the subject of the Protected Disclosure or the complaint of reprisal; and
 - e) full details of the Protected Disclosure or the complaint of reprisal.
2. The Officer or Chair, as applicable, will review the following with the Member or a complainant making the Protected Disclosure or a complaint of reprisal:
 - a) these procedures;
 - b) confidentiality protections;
 - c) the record keeping process;
 - d) the commitment of the College to protect the Member or the complainant from reprisals, if any, and
 - e) potential alternative procedures for dealing with the matter
3. Normally, within no more than 10 business days following the receipt of the Protected Disclosure or the complaint of reprisal, the Officer or Chair will determine if:

- a) the Protected Disclosure or the complaint of reprisal is valid and should be followed up with an investigation;
 - b) the Protected Disclosure or the complaint of reprisal should be referred to an alternate, more appropriate process;
 - c) the Protected Disclosure should be referred to the Public Interest Disclosure Commissioner appointed under section 38 of the Public Interest Disclosure (Whistleblower Protection) Act because the subject matter of the Protected Disclosure constitutes an imminent risk of a substantial or specific danger to the life, health or safety of individuals, or to the environment;
 - d) the Protected Disclosure or the complaint of reprisal should be dismissed for being frivolous or vexatious in nature and made in bad faith;
 - e) the Protected Disclosure or the complaint of reprisal do not have sufficient information to undertake an investigation; or
 - f) Protected Disclosure or the complaint of reprisal should be dismissed for another valid reason(s).
4. If deemed acceptable, the Designated Officer will carry out, or cause to be carried out, the preliminary review of facts presented to determine whether there are reasonable and probable grounds to warrant an investigation. The results of this preliminary assessment will be reviewed with the Chief Officer to assess the merits of an investigation. A single investigation may be carried out for multiple reports of the same disclosure.
 5. If the Designated Officer decides not to investigate a Protected Disclosure (as per part 3 of this section of Procedure 400.21.01) then he or she will inform the member who made the protected Disclosure and give reasons for the decision.
 6. The Officer or Chair will inform the Member or the complainant who made the Protected Disclosure or the complaint of reprisal, of his/her decision and what the next steps are, if any (in writing).

Investigation of the Disclosure

1. Appointing an Investigator

- 1.1. The Designated Officer, with appropriate consultation with the Chief Officer, will appoint an investigator to investigate the allegations pursuant to the Protected Disclosure, or the complaint of reprisal. The Investigator may be a person who is internal to the College or an external and independent third party as circumstances require. The objectives of an Investigation will be:
 - i. to collate information relating to the allegation as expediently as possible. This may involve steps to protect or preserve documents, materials and equipment;
 - ii. to consider the information collected and to draw conclusions objectively and impartially;
 - iii. to maintain procedural fairness and observe the principles of natural justice in the treatment of witnesses and the Member or complainant who submitted the

- iv. Protected Disclosure or the complaint of reprisal; and to make recommendations arising from the conclusions drawn concerning remedial or other appropriate action.

2. Terms of Reference for Investigator and Investigation Plan

2.1 Before commencing an Investigation, the Designated Officer will draw up a terms of reference. The Terms of Reference will:

- i. set a date (that is no more than 110 business days from the date on which the disclosure of Wrongdoing, or the complaint of reprisal, was received) by which the Investigation Report (the “Report”) is to be concluded;
- ii. describe the resources available to the Investigator to complete the Investigation within the allotted time; and
- iii. require the Investigator to make regular reports to the Designated Officer, who, in turn, will keep the Chief Officer apprised of the general progress of the Investigation.

2.2 Similarly, in circumstances wherein the Investigator is reporting to the Chair, the Terms of Reference will require the Investigator to make regular reports to the Chair directly who, in turn, will keep the Board of Governors apprised, when appropriate, of the general progress of the Investigation.

2.3 In certain exceptional circumstances, the Designated Officer may approve, if reasonable, an extension of time requested by the Investigator to complete the Investigation and submit the Report. Notwithstanding the foregoing, no extension of time will be granted that is more than 140 business days from the date on which the disclosure, or the complaint of reprisal was received.

2.4 The Investigator will prepare an Investigation Plan for approval by the Designated Officer. The Plan will list the issues to be substantiated and describe the avenue of inquiry. The Plan will also address the following questions:

- i. What is being alleged?
- ii. What are the possible findings or offenses?
- iii. What are the facts in issue?
- iv. How is the inquiry to be conducted?
- v. What resources are required?

2.5 If the Member or a complainant who submitted the Protected Disclosure, or the complaint of reprisal, can be contacted at this point of the Investigation, such Member or the complainant shall be:

- i. notified by the Investigator that he or she has been appointed to conduct the Investigation;
- ii. asked to clarify any matters pertaining to their report of Protected Disclosure, or the complain of reprisal; and
- iii. asked to provide any additional material he or she might have.

2.6 If the Investigator discovers evidence of wrongdoing not reported nor understood to be part of the ongoing investigation; he/she will immediately report their findings to the Designated Officer. Considering the new information the Investigation Terms of Reference will be renegotiated to include the other wrongdoing or a second Investigation will be launched.

3. Principles of Natural Justice and Procedural Fairness

3.1 The Investigator will follow at all times, during the course of the Investigation, the principles of natural justice and procedural fairness. These principles ensure that a fair decision is reached by an objective decision-maker. Maintaining procedural fairness protects the rights of individuals and enhances public confidence in ACAD's processes.

3.2 ACAD will show consideration for the following in ensuring procedural fairness:

- i. the person who is the subject of the Protected Disclosure, or the complaint of reprisal, is entitled to know the allegations made against him or her and must be given the right to respond. This however does not mean the person must be advised of the allegation as soon as the Protected Disclosure or the complaint of reprisal is received or the Investigation has commenced;
- ii. 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 fairly set out in the Report;
- iii. all relevant parties to a matter should be heard and all submissions should be considered;
- iv. a decision should not be made until all reasonable inquiries have been made;
- v. the Investigator or any decision maker should not have a personal or direct interest in the matter being investigated;
- vi. all proceedings must be carried out fairly and without bias. Care should be taken to exclude perceived bias from the process; and
- vii. the Investigator must be impartial in assessing the credibility of the individual who submitted the Protected Disclosure, or the complaint of reprisal, and any witnesses thereto. Where appropriate, conclusions as to credibility should be included in the Report.

3.3 At any point during an investigation the Designated Officer may decline to investigate, or continue to investigate, if he or she determines any of the following conclusions:

- i. The employee has failed to exhaust other reasonably available procedures.
- ii. The alleged wrongdoing is one that would be more appropriately dealt with under another Procedure such as the College's Fraud and Irregularity Procedure 200.31.01.
- iii. The allegations do not have sufficient information to undertake an investigation.
- iv. Another valid reason exists for not pursuing an investigation.

3.4 If the Designated Officer ceases to investigate a protected Disclosure he or she must inform the person who made the Protected Disclosure and give reasons for the decision.

- 3.5 The Investigator will make notes of all discussions, phone calls, and interviews with witnesses. Witnesses may have legal or other representation or support during an interview at the discretion of the Investigator.
- 3.6 To the extent possible and within the limitations of law and this Procedure and the need to conduct a competent investigation:
- i. the investigation shall be kept confidential including but not limited to the protection of the identity of the person who disclosed the wrongdoing and/or who is the subject to the complaint; and
 - ii. the person who discloses an alleged wrongdoing shall hold the matter as strictly confidential throughout the investigation and the completion of the process outlined in this Procedure.

4. Reporting Results of the Investigation

- 4.1 When the Investigation is complete, the Investigator will submit his/her Report to the Designated Officer, the Alternate Designated Officer, the Chief Officer or the Chair, as applicable. The Report will include, but not limited to:
- i. the allegation;
 - ii. an account of all relevant information received and, if the Investigator has rejected evidence as being unreliable, the reasons for this conclusion;
 - iii. the conclusions reached and the basis for them; and
 - iv. any recommendations arising from the conclusions.
- 4.2 The Report will be accompanied by all records created or received by the Investigator in the course of the Investigation.
- 4.3 The Report will not include information that leads or could lead to the identification of the individual who submitted the Protected Disclosure or a complaint of reprisal if that individual had requested anonymity.

5. Outcome of the Investigation

- 5.1 If the Designated Officer is satisfied that the Report brings the Investigation to an end, he or she will provide the Chief Officer with a copy of the Report. If the Investigator has found evidence of wrongdoing, the Report will include recommendations for 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 conduct.
- i. Enforcement and follow-up of recommended disciplinary actions will be handled by the Chief Officer, up to and including dismissal of the responsible College employee.
- 5.2 Any disclosures found to be made in bad faith or in breach of this Procedure shall be subject to appropriate disciplinary action, by the Chief Officer. Disciplinary actions imposed by the Chief Officer will be determined on the basis of the facts of each case and the extent of

harm to ACAD.

- 5.3 The Designated Officer shall provide quarterly to the Chief Officer, or as often as is necessary, a report of all disclosures received under this Procedure including those disclosures that had not been handled as a Protected Disclosure. This summary report will be made available to the Board of Governors and the Commissioner as an insert in the College's Annual Report. The annual summary report will include the following:
- i. all investigations undertaken;
 - ii. the results of the investigations; and
 - iii. the actions that are/were required to be taken as a result of the investigations.
- 5.4 In circumstances wherein the Investigator is reporting to the Chair directly, the Chair will provide a report to the Board of Governors of the investigation undertaken against the Chief Officer, the Designated Officer or the Alternate Designated Officer the results of the investigation and any actions that are required to be taken as a result of the investigation.

6. Treatment of Protected Disclosure or a Complaint of Reprisal

- 6.1 The Designated Officer, or the Chair, as applicable, will ensure that the individual who submitted the Protected Disclosure or the complaint of reprisal is kept regularly informed concerning the handling of their Protected Disclosure or their complaint and about the Investigation including:
- i. receiving written notice of the allegations,
 - ii. receiving notice concerning the resolution of any investigation, and
 - iii. receiving a copy of the investigative findings where permitted by law
- 6.2 If the individual who submitted the Protected Disclosure or the complaint of reprisal requests information about the progress of an Investigation, that information may be provided at the discretion of the Investigator.
- 6.3 Records pertaining to a Protected Disclosure or a complaint of reprisal are the property of the College and will be retained in accordance with document retention practices of the College. They will also be subject to safeguards that ensure their confidentiality and, when applicable, the anonymity of the individual who submitted the Protected Disclosure or the complaint of reprisal.
- 6.4 If the complainant who has made an internal disclosure or a complaint of reprisal is not satisfied that an investigation has been completed in accordance with these procedures or has not been resolved within the defined timelines, or is dissatisfied with the decision rendered, he/she may choose to make a disclosure to the Commissioner.

REFERENCES

Public Interest Disclosure Act (PIDA)
Procedure 400.19.01 Code of Conduct
20. Whistle Blower Policy



Procedure 400.20.01 Conflict of Interest
Procedure 200.29.01 IT-Acceptable Use
Procedure 200.31.01 Fraud and Irregularity
13. Risk Management Policy
18. Human Resource Policy
Freedom of Information and Protection of Privacy Act
Public Interest Commissioner <http://www.pic.alberta.ca/>