

Public Interest Disclosure Act (PIDA)

University Policy No.: GV0250
Classification: Governance
Approving Authority: Board of Governors
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Associated Procedures: [Public Interest Disclosure Act - Procedures](#)

Purpose

- 1.00 The purpose of this policy is to articulate how the University complies with the Public Interest Disclosure Act (PIDA).

PIDA requires certain public bodies to provide Employees with a process for making Disclosures, seeking advice about making a Disclosure, or making a complaint about Reprisal.

UVic is committed to all obligations under PIDA and adopts this policy and associated procedures to meet them.

Definitions

- 2.00 **BC Ombudsperson** means the local provincial Ombudsperson appointed under the Ombudsperson Act (RSBC 1996, c.340).

Designated Officer means the university employee(s) designated in this policy's procedures, to receive reports of Wrongdoing, fulfill investigations, provide updates on disclosures, and receive requests for advice.

Discloser means an Employee who requests advice or makes a disclosure or complaint about Wrongdoing or reprisal under PIDA.

Disclosure means a submission of information alleging wrongdoing or Reprisal made by a Discloser in accordance with this policy and associated procedures.

Employee means:

- a) a current employee or member of the Board of Governors of UVic; and
- b) a former employee or former member of the Board of Governors of UVic, if the Wrongdoing occurred or was discovered by the Discloser when they were employed by UVic.

Interim Measure means any temporary restrictions or conditions on an individual's ability to enter upon or to carry out activities upon University premises, or their ability to exercise University privileges under University policy or collective agreements.

Protection Official means the:

- Provincial Health Officer in respect of a health-related matter;
- the agency responsible for the Emergency and Disaster Management Act in respect of an environmental matter; or
- an appropriate police force in any other case.

Reprisal means any of the following measures taken against, or counseled to be taken against, an Employee because the Employee has, in good faith, made a request for advice, a Disclosure, or a complaint about a Reprisal, or cooperated with a PIDA Investigation:

- a) a disciplinary measure;
- b) a demotion;
- c) a termination of employment;
- d) any measure that adversely affects the Employee's employment or working conditions;
- e) a threat to take any of the measures referred to in sections (a) to (d).

Respondent means any Employee who is alleged or found to have committed Wrongdoing.

Supervisor means an individual who instructs, directs, and manages employees in the performance of their occupational duties.

Wrongdoing means any of the following, that came into force before or after the establishment of PIDA, in or relating to UVic:

- a) a serious act or omission that, if proven, would constitute an offence under enactment of B.C. or Canada;
- 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 an employee's duties or functions;
- c) a serious misuse of public funds or public assets;
- d) a gross or systemic mismanagement;
- e) knowingly directing or counselling a person to commit a wrongdoing described in (a) to (d).

Jurisdiction/Scope

- 3.00 This Policy applies exclusively to Employees who make Disclosures or who wish to seek advice about making Disclosures if the Wrongdoing occurred or was discovered when the Employee was employed by the University.
- 4.00 Matters that do not come under the scope of this Policy may be addressed in other UVic policies, procedures, collective agreements, rules, or guidelines including, without limitation, under the:
 - Financial Irregularities Response Management guidelines;
 - Enterprise Risk Management policy;
 - Collective Agreements as applicable;
 - Scholarly Integrity Policy;
 - Conflict of Interest policies;

- Sexualized Violence Prevention and Response policy;
- Discrimination and Harassment Prevention and Response policy;
- Information Security policy; the Protection of Privacy policy;
- Prevention of Violence in the Workplace policy; and
- Environmental Health and Safety policy.

UVic encourages those who become aware of improper conduct to report it in accordance with the applicable Policies. If a Disclosure does not relate to a matter that constitutes a Wrongdoing, existing processes for investigation will be followed.

- 5.00 If a Disclosure is deemed to be a matter more appropriately investigated using the processes defined under another institutional policy, the matter will be referred accordingly. This will not affect overall PIDA protections and timeline requirements.
- 6.00 If an Employee wishes to report conduct that the Employee believes constitutes Wrongdoing and does not wish to do so under other applicable Policies above, the Employee may do so under this Policy.
- 7.00 Where applicable, individuals who are not Employees may make disclosures following processes according to other applicable UVic policies.
- 8.00 Except with respect to Reprisals, this Policy does not apply to disputes between Employees and UVic with respect to their employment with UVic. Individual employment disputes are managed in accordance with the applicable UVic policies, procedures, rules, guidelines, collective agreements, or other employment contracts.

Policy

- 9.00 UVic will offer Employees a mechanism to make Disclosures about Wrongdoings that affect the University, university Employees, and operations of the University.
- 10.00 UVic will provide Employees with PIDA information, including PIDA definitions and protections. This will include training for Supervisors and Designated Officers.
- 11.00 Employees may make Disclosures either internally at UVic, or directly to the BC Ombudsperson.
- 12.00 Each person who receives, reviews, and investigates Disclosures must carry out those functions in an expeditious, fair, and proportionate manner as appropriate in the circumstances; and in accordance with the principles of procedural fairness.
- 13.00 A person must not engage in any Reprisal, or counsel or direct another person to engage in a Reprisal, against an Employee. This protection does not apply to protect an Employee from the consequences of their own Wrongdoing, misconduct or improper activity unrelated to their rights under PIDA. An Employee who engages in Reprisal may be subject to discipline, up to and including termination of employment.
- 14.00 UVic will publish an annual report regarding Disclosures and publish this as set out in the Procedures.

Roles and Responsibilities

15.00 *President*

The President is responsible for:

- a) assigning the role of Designated Officer;
- b) ensuring that instruction is available to all Employees about PIDA, this policy and its associated procedures;
- c) publishing annual PIDA reports; and
- d) responding to the BC Ombudsperson regarding steps taken to address recommendations relating to a finding of Wrongdoing made by the BC Ombudsperson.

16.00 *Designated Officer*

The Designated Officer, or delegate(s), are responsible for:

- a) receiving requests for advice;
- b) receiving Disclosures; and
- c) investigating Disclosures.

For the purposes of this Policy, the Director, Internal Audit or delegate will be responsible for (a) and (b); and determinations around (a) and (c) will be made in conjunction with any, but not limited to, the following: University Secretary; Associate Vice-President, Human Resources; General Counsel; Deputy Provost; Faculty Relations; or faculty leaders.

The Designated Officer investigates Disclosures in accordance with the PIDA Procedures, or in consultation with the BC Ombudsperson. The Designated Officer can request assistance from the BC Ombudsperson during an investigation, or refer a Disclosure, in whole or in part, to the Ombudsperson. If the Designated Officer refers the Disclosure to the BC Ombudsperson, the Designated Officer must notify the Discloser.

17.00 *BC Ombudsperson*

Appointed by the Lieutenant Governor as an officer of the Legislature, the BC Ombudsperson investigates allegations of Wrongdoing from public Employees, as well as allegations of Reprisal. The BC Ombudsperson works independently of UVic and has discretion regarding whether to begin an investigation after a Disclosure is made. The BC Ombudsperson prepares a report upon the completion of an investigation into whether the BC Ombudsperson has made a finding of Wrongdoing.

18.00 *Discloser*

Disclosers have a duty to make Disclosures in 'good faith', i.e. doing so honestly, regardless of whether it is done negligently. An Employee who makes a bad faith, malicious or intentionally false Disclosure may be subject to discipline as outlined in the Management Excluded Terms & Conditions and various collective agreements.

19.00 *Supervisors*

Supervisors are responsible for responding to requests for advice from Employees, receiving Disclosures and referring Disclosures to the Designated Officer, or other senior official, as set out in this policy's associated procedures. Supervisors should also make Disclosers aware of other relevant policies (see 'Related Policies and Documents' below).

Authorities and Officers

The following is a list of authorities and officers for this policy:

- i) Approving Authority: Board of Governors
- ii) Designated Executive Officer: President
- iii) Procedural Authority: President
- iv) Procedural Officer: Director, Internal Audit

Relevant Legislation

Public Interest Disclosure Act

Related Policies and Documents

- [Enterprise Risk Management Policy \(GV0225\)](#)
- [Faculty Collective Agreement](#)
- [Scholarly Integrity Policy \(A\) \(AC1105\(A\)\)](#)
- [Scholarly Integrity Policy \(B\) \(AC1105 \(B\)\)](#)
- [Conflict of Interest and Confidentiality \(GV0210\)](#)
- [Conflict of Interest in Employment Practices \(HR6200\)](#)
- [Conflict of Interest in Student-Faculty Relationships \(AC1200\)](#)
- [Financial Conflicts of Interest in Public Health Service Funded Research \(RH8215\)](#)
- [Sexualized Violence Prevention and Response Policy \(GV0245\)](#)
- [Discrimination and Harassment Policy \(GV0205\)](#)
- [Information Security Policy \(IM7800\)](#)
- [Protection of Privacy Policy \(GV0235\)](#)
- [Prevention of Violence in the Workplace \(SS9120\)](#)
- [Internal Audit Policy \(GV0220\)](#)
- [Financial Irregularities Response Management guidelines](#)

External Resources

<https://bcombudsperson.ca/public-interest-disclosure/>

Public Interest Disclosure Act - procedures

Procedural Authority: President
Procedural Officer: Director, Internal Audit

Effective Date: TBD
Supersedes: NEW
Last Editorial Change: n/a

Parent Policy: [Public Interest Disclosure Act](#)

Purpose

1.00 These procedures establish the processes by which the University will respond to requests for advice, Disclosures of Wrongdoing, and complaints of Reprisal under the Public Interest Disclosure Act (PIDA).

Definitions

2.00 The definitions contained within the University's PIDA policy apply to these procedures.

3.00 Days: all time periods listed are business days.

Requesting Advice

4.00 An Employee who is considering making a Disclosure may request and receive advice from:

- a. the Designated Officer
- b. the Employee's supervisor
- c. the Employee's union representative or employee association representative
- d. the BC Ombudsperson
- e. a lawyer

5.00 Be advised that the Supervisor, Designated Officer, or BC Ombudsperson may require requests for advice to be in writing.

6.00 Requests for advice will be acknowledged within 5 days by anyone under 4.0 (a-b); and reviewed and / or submitted to the Designated Officer within 30 days.

Making Disclosures

7.00 If an Employee reasonably believes that they have information that demonstrates Wrongdoing, the employee may make a Disclosure to:

- a. their Supervisor (current employees only)
- b. the Designated Officer, or
- c. the BC Ombudsperson

- 8.00** Disclosures must be submitted in writing, by one of these methods:
- Hard copy mail
 - Email
 - UVic Safe Disclosure:
<https://www.uvic.ca/internalaudit/safe-disclosure/form/index.php>
 - Reporting to the BC Ombudsperson
- 9.00** Disclosures submitted will be acknowledged within 5 days; and reviewed and / or submitted to the Designated Officer within 30 days.
- 10.00** Disclosures must include the following information, if known:
- a. a description of the Wrongdoing;
 - b. the name of the person(s) alleged to have committed the Wrongdoing, or is about to commit the Wrongdoing;
 - c. the date or expected date of the Wrongdoing;
 - d. whether information or conduct that is being disclosed relates to an obligation under an existing University policy or process, or applicable law, and if so, the name of the University policy, process, or applicable law; and
 - e. whether the Wrongdoing has already been reported under the policy or another process, and if so, the name of the person to whom it was reported and the response, if any, that the discloser received.
 - f. sufficient information to enable the recipient of the Disclosure to determine if the Discloser is an Employee; and
 - g. sufficient details about the alleged Wrongdoing to enable the allegation to be investigated.
 - h. potential witnesses to the Wrongdoing.
- 11.00** Disclosures can be made anonymously. Employees who make anonymous Disclosures should be aware that this may limit UVic's ability to respond to the request. It is possible that an anonymous Disclosure will not contain adequate detail to enable a full and thorough investigation, and the Designated Officer may thus be unable to seek clarification or further information if there is no way to contact the anonymous Discloser. Additionally, the Designated Officer may be unable to advise an anonymous Discloser of whether an investigation will be conducted, or the progress or results of an investigation.
- 12.00** An anonymous Discloser need not be notified under Ss. 30.00, 32.00, and 39.00. If an anonymous Discloser provides contact information, notifications may be sent to the Discloser at the discretion of the Designated Officer or BC Ombudsperson as applicable.
- 13.00** If the subject matter of the disclosure relates to a matter for which UVic has more appropriate investigative processes it will be referred to the appropriate authority.

Public Disclosures involving imminent risk of Danger

- 14.00** Employees are subject to employment obligations, including a duty to maintain the confidentiality of their employer's information. However, an Employee may make a public disclosure of Wrongdoing under limited, exceptional circumstances. If an Employee reasonably believes that a matter constitutes an imminent risk of a substantial and

specific danger to the life, health, or safety of persons, or to the environment, the Employee may make a Disclosure to the public if the Employee:

- a. consults a relevant Protection Official before making the disclosure,
- b. receives direction from the Protection Official, and
- c. makes the disclosure to the public in accordance with the following:
 - i. the direction received under paragraph (b);
 - ii. [sections 5 \[Unauthorized release of information\]](#) and [6 \[Personal information\]](#) of PIDA.

15.00 Immediately after making a public disclosure, the Employee must advise the Employee's Supervisor, if any, and/or the Designated Officer about the Disclosure to the public and make a Disclosure in accordance with the Policy and these Procedures.

16.00 When a Disclosure is received by a Designated Officer or Supervisor, the Designated Officer will follow the procedures as required by PIDA.

Protection Against Reprisal

17.00 Employees must not engage in any Reprisal against a person who has requested advice or made a Disclosure under this policy/procedure or the guidelines of PIDA, or anyone who has cooperated in an investigation conducted in accordance with PIDA.

18.00 If a Discloser has a concern that Reprisal may arise or has occurred, the Discloser may bring that concern to the attention of the Designated Officer. The Designated Officer will assess the risk of Reprisal and may implement interim measures where feasible to avoid or minimize the risk of Reprisal. Depending on the circumstances, the following are examples of interim measures that may be taken:

- removal of the Discloser from the supervision of a specific supervisor or appointment of additional supervisors for the Discloser; or
- change in the Discloser's performance evaluators.

19.00 Any Employee found to have enacted an instance of Reprisal may be subject to disciplinary actions. Reprisal or retaliation is prohibited conduct and will be taken seriously. It will be addressed by the University as a separate matter under applicable University policies, processes, or collective agreements.

20.00 Allegations of Reprisal/retaliation should be brought forward to the Designated Officer who will inform the appropriate individual with supervisory responsibility for consideration under applicable University policies, processes or collective agreements.

21.00 In addition, if an Employee believes that they have experienced Reprisal, the Employee may contact the Designated Officer or the BC Ombudsperson's office to make a complaint. If an Employee is a member of a union or association, they may also wish to contact their union or association as a resource.

22.00 Employees may also contact the BC Ombudsperson directly to receive advice or make a Disclosure alleging Reprisal. Disclosures involving alleged Reprisal made to the BC Ombudsperson's office are investigated by the BC Ombudsperson.

Investigations

- 23.00** Any person involved in receiving, reviewing, and investigating Disclosures will strive to carry out these functions expeditiously and equitably, appropriate in the circumstances.
- 24.00** When initiating an investigation, the Designated Officer will implement measures to safeguard the confidentiality of the Discloser, to the extent possible, throughout the process and ensure risks of Reprisal are managed to the extent reasonably possible.
- 25.00** The Designated Officer will assess the Disclosure to:
- a. confirm that the Discloser is an Employee;
 - b. determine whether the allegations in the Disclosure would, if substantiated, meet the definition of Wrongdoing;
 - c. confirm whether the alleged Wrongdoing occurred in or relating to UVic;
 - d. confirm that contents of the Disclosure meet the requirements of this procedure;
 - e. evaluate the risk of Reprisal against the Discloser;
 - f. evaluate whether the Disclosure reveals information that gives rise to an imminent risk; and
 - g. If the Designated Officer reasonably believes that a Disclosure reveals information that gives rise to an imminent risk, they may make a report to an appropriate Protection Official (Ss. 14.00-16.00).
- 26.00** All investigations carried out under these procedures must:
- a. be undertaken promptly and diligently, and be as thorough as necessary, given the circumstances;
 - b. be objective, conducted in accordance with the principles of procedural fairness, and impartial to both the Discloser and the Respondent(s) when evaluating the alleged Wrongdoing;
 - c. comply with all relevant provisions in any applicable collective agreement or policy, including notice, timelines, and other process requirements; and
 - d. be sensitive to the interests of all parties involved and maintain confidentiality to the extent possible under the circumstances.
- 27.00** The Designated Officer or BC Ombudsperson may require that an investigation of a Disclosure submitted that is not pursuant to PIDA be postponed or suspended if there is evidence that such investigations were initiated with an intention to compromise the investigation of a Disclosure under PIDA.
- 28.00** The Designated Officer must refuse to investigate or stop an investigation if the Disclosure primarily relates to:
- a. a dispute between an Employee and UVic with respect to the Employee's employment;
 - b. a matter relating to law enforcement, i.e. actions of police force(s) or members, or ongoing police investigation(s);
 - c. a matter relating to the prosecution of an offence;
 - d. the exercise of an adjudicative function of court, tribunal, or other statutory decision maker, including a decision, or the processes or deliberations that have

led or may lead to a decision, by the court, tribunal, or other statutory decision maker.

- 29.00** The Designated Officer may refuse to investigate or stop an investigation of a Disclosure if any of the following conditions are met:
- a. no adequate details are provided for an alleged Wrongdoing;
 - b. the Disclosure is frivolous, has not been made in good faith, or has not been made by a Discloser as defined by this policy;
 - c. the investigation would not be effective due to extreme time lapses;
 - d. the Disclosure has already been investigated;
 - e. the Disclosure would be more appropriately investigated under another UVic policy or procedure;
 - f. a prescribed reason under regulations issued pursuant to PIDA to refuse to investigate or stop investigating applies.
- 30.00** If a Disclosure is not determined to warrant a PIDA investigation, or a PIDA investigation is suspended, the Designated Officer will notify the Discloser (if provided contact information), including reasons, within 30 days. These may include reference to a more appropriate UVic policy or procedure.
- 31.00** If the Designated Officer reasonably believes a disclosed Wrongdoing is evidence of a crime, the alleged offence must be reported to a Protection Official.
- 32.00** If a PIDA investigation proceeds after a Disclosure, the Designated Officer will notify:
- a. the President, within 30 days (or, if the President is alleged to be responsible for the disclosed Wrongdoing, the Chair of the Board of Governors); unless the Designated Officer believes the notification may compromise the investigation or breach the privacy of the Discloser in a manner that makes them susceptible to Reprisal;
 - b. the Discloser (within 30 days);
 - c. any Respondents that are subject to a PIDA investigation at an appropriate time, with regards to the protection of integrity of a PIDA investigation and in accordance with the principles of procedural fairness.
- 33.00** If, during an investigation, the Designated Officer reasonably believes another Wrongdoing has occurred, this potential Wrongdoing may also be investigated or reported to an appropriate authority.
- 34.00** The Designated Officer may consolidate an investigation with another investigation if it is relevant to do so, in accordance with PIDA and principles of procedural fairness.
- 35.00** Any Employee who does not protect confidentiality and privacy as related to this policy and procedures, may be subject to disciplinary action. Those who breach confidentiality and privacy may also face disciplinary actions, and possible legal penalties.
- 36.00** All information and records made and received to administer this policy are evidence of UVic's compliance with PIDA. Any information or records collected during an investigation will be retained and disposed of in accordance with UVic's Records Management Policy and procedures.

Outcomes of Investigations

- 37.00** Upon completing a PIDA Investigation, the Designated Officer must prepare a written report, including the following:
- a) Finding(s) of Wrongdoing, if any;
 - b) reasons to support the finding(s) of Wrongdoing; and
 - c) any recommendations to address the finding(s) if needed.
- 38.00** The investigation report will be provided to the President, unless they are implicated in founded Wrongdoing. If the President is implicated in founded Wrongdoing, the report will be provided to the Chair of the Board of Governors.
- 39.00** Subject to the University's obligations under British Columbia's [Freedom of Information and Privacy Act \(FIPPA\)](#):
- a. the Designated Officer will provide a summary of the investigation report to the Discloser; and
 - b. where practical, the Designated Officer will also provide a summary of the investigation report to any Employee alleged or found to be responsible for Wrongdoing, and their Supervisor.

Confidentiality

- 40.00** The University is committed to acting in accordance with FIPPA which regulates the collection, use, disclosure, storage, and retention of personal information; and also to UVic's privacy and information security policies.

Annual Report

- 41.00** Annually, the Designated Officer will provide a report to the President and Audit Committee, detailing activities under this policy. This report will include the number of Disclosures received, investigations commenced, results of Disclosures found to substantiate Wrongdoing, and other information as prescribed by PIDA and applicable regulations.
- 42.00** The report will not publicly identify anyone who has participated in the Disclosure process, including Employees who have asked for advice but not made a Disclosure.
- 43.00** UVic will publish an annual summary report on the University's website.