



Public Interest Disclosure (Whistleblower Protection) Act

Policy & Procedures for ASASA ACADEMY

Approved by: ASASA Board

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- PART 1 - WHISTLEBLOWER PROTECTION POLICY

Policy Statement

A just workplace culture is fundamental to the success of independent schools in Alberta. To ensure ASASA Academy maintains high standards of legal, ethical and fiscal behavior, ASASA Academy endorses a culture where employees and management work collaboratively to detect and remedy wrongdoing, and employees who come forward to report wrongdoing are protected and appreciated.

Application

- 1.1** The *Public Interest Disclosure (Whistleblower Protection) Act* facilitates the disclosure and investigation of significant and serious matters that employees believe to be unlawful, dangerous or injurious to the public interest. The Act applies to employees of independent schools in Alberta, defined specifically in the Act as:

“a private school registered and accredited under the *School Act* that receives a grant under the *Education Grants Regulation*”

- 1.2** The Act and this procedure only apply with respect to wrongdoings committed after the Act came into force on June 1, 2013, and to wrongdoings added to the amended Act which came into force on March 1, 2018.
- 1.3** Matters that do not relate to wrongdoings defined under the Act will continue to be managed in accordance with other internal operational policies & procedures.

Purpose

- 1.4** The purpose of this policy and its subsidiary procedures is to:
- Provide guidance to employees on how to report wrongdoing within ASASA Academy;
 - Describe the roles and responsibilities of management and employees as they relate to the Act;
 - Provide guidance on the management and investigation of disclosures by employees, as required by the Act.
 - Support employees who come forward to report wrongdoing and make them aware of the protection provisions afforded to them under the Act.
 - Detect and remedy wrongdoing within ASASA Academy and in doing so, instill public confidence in the administration of ASASA Academy;



- PART 2 - ROLES & RESPONSIBILITIES

The Public Interest Commissioner

- 2.1 The Public Interest Commissioner is responsible for carrying out the purpose of the Act. The Public Interest Commissioner reviews and investigates disclosures of wrongdoing and complaints of reprisal made under the Act by employees of independent schools, and reports the outcome of any investigation, along with recommendations for corrective measures, to the operator of the independent school, and to the Minister of Education where required. The Public Interest Commissioner also provides advice to employees and provides advice and support to the Designated Officer.

The Chief Officer

- 2.2 The Chief Officer is responsible for the overall administration and reporting requirements of the Act within independent schools. This includes the establishment and maintenance of this procedure and ensuring information about the Act and the procedures are widely communicated to employees. The Chief Officer of an independent school is the **operator of the independent school**, and where the operator is incorporated or registered as a society under the *Societies Act*, then the **chair of the board of directors** of the corporation or society.¹

The Designated Officer

- 2.3 The Designated Officer is the individual appointed by the Chief Officer made responsible for receiving and investigating disclosures of wrongdoing by employees within the independent school. The designated officer also has a responsibility to provide information and advice to employees who are considering making a disclosure. Where a Designated Officer is not appointed, then the Chief Officer fills this role. The designated officer for ASASA Academy is Aresha Ali and may be contacted at Aresha.ali@asasa.ca or 403-285-5677.

Supervisors

- 2.4 Supervisors are responsible for giving information and advice to employees who are considering making a disclosure of wrongdoing. Employees are protected for seeking advice from their supervisor, to the extent of the information requested and advice provided. Supervisors are anyone who has a reporting relationship with employees and includes school principals. Further information relating to the role of supervisors can be found [here](#).

Employees

- 2.5 Employees who believe wrongdoing is occurring within ASASA Academy are protected from any type of adverse employment action when they report the wrongdoing to either their

¹ Schedule 2, Section 1(c), *Public Interest Disclosure (Whistleblower Protection) Regulation*



Designated Officer, or to the Public Interest Commissioner. Employees have a responsibility to report wrongdoing in good faith, to cooperate during an investigation, and to provide any information the Designated Officer or Public Interest Commissioner may require.

- PART 3 -

PROCEDURES FOR EMPLOYEES TO REPORT WRONGDOING

Reportable types of wrongdoing

- 3.1** The Act facilitates the disclosure and investigation of “wrongdoing”. The Act specifically defines the types of wrongdoing that may be reported and investigated:
- a. 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;
 - b. An act or omission that creates:
 - i. 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
 - ii. A substantial and specific danger to the environment;
 - c. Gross mismanagement, including an act or omission that is deliberate and that shows a reckless or willful disregard for the proper management of:
 - i. Public funds or a public asset,
 - ii. The delivery of a public service, including the management or performance of
 - (A) 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 arrangement², and
 - (B) 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,
 - iii. employees, by a pattern of behavior or conduct of a systemic nature that indicates a problem in the culture of the organization relating to bullying, harassment or intimidation;
 - d. Knowingly directing or counselling an individual to commit a wrongdoing mentioned above.
- 3.2** This procedure **does not** apply to alleged contraventions of internal policies or directives, code of conduct matters, violations of collective agreements, or individual disputes between management and an employee relating to bullying, harassment or intimidation.

² No contracts or arrangements have been identified or described in the regulations as of the date of this policy



Seeking advice

- 3.3 Employees considering making a disclosure may seek advice from their supervisor, their Designated Officer, or from the Public Interest Commissioner. Employees are protected from any adverse employment action as a result of seeking advice.
- 3.4 In circumstances where the matter relates to the Designated Officer or Chief Officer, employees are encouraged to seek advice from the Public Interest Commissioner.
- 3.5 The office of the Public Interest Commissioner may be contacted at:

Email: info@pic.alberta.ca
Phone: 1-855-641-8659
www.yourvoiceprotected.ca

Reporting wrongdoing

- 3.6 Employees who want to report wrongdoing may do so by contacting the Designated Officer. Employees should clearly indicate they are making a disclosure under the *Public Interest Disclosure (Whistleblower Protection) Act*. The designated officer for ASASA Academy is Aresha Ali and may be contacted at:

Email: Aresha.ali@asasa.ca
Phone: 403-285-5677
- 3.7 Employees may be asked to report the wrongdoing to the Designated Officer using the prescribed [Disclosure of Wrongdoing](#) form in Appendix 1.
- 3.8 Employees who want to report wrongdoing to the Public Interest Commissioner may do so by submitting the prescribed form on the Public Interest Commissioner's website. Employees may find the form [here](#).

Anonymous disclosures

- 3.9 Employees considering making a disclosure anonymously should seek advice about doing so from the Designated Officer or the Public Interest Commissioner. Anonymous disclosures may not be acted on if there is inadequate particulars provided about an alleged wrongdoing that would permit the conduct of a fair and effective investigation.

Reporting reprisals

- 3.10 The Act protects employees from reprisal who have, in good faith:



- a. requested advice about making a disclosure from a supervisor, the Designated Officer, or the Public Interest Commissioner,
- b. made a disclosure under the Act,
- c. cooperated in an investigation under the Act,
- d. declined to participate in a wrongdoing, or
- e. done anything in accordance with the Act.

3.11 A **reprisal** is defined as taking, directing or counseling someone to take or direct:

- a. a dismissal, layoff, suspension, demotion or transfer, discontinuation of a job, change of job location, reduction in wages, change in hours of work or reprimand;
- b. any measure, other than those mentioned above, that adversely affects the employee's employment or working conditions; or
- c. a threat to take any of the measures above.

3.12 ASASA Academy supports employees who come forward in good faith to report wrongdoing. Reprisals taken against employees will not be tolerated. A reprisal is an offence under the Act, and anyone who takes a reprisal against an employee is liable to prosecution under the Act in addition to disciplinary action, including termination of employment, by ASASA Academy.

3.13 Employees who believe they have been reprimanded against may make a complaint of reprisal directly to the Public Interest Commissioner using the form on the Public Interest Commissioner's website. The Complaint of Reprisal Form may be found [here](#).

- PART 4 -

PROCEDURES FOR MANAGING AND INVESTIGATING DISCLOSURES OF WRONGDOING

Accessing disclosures of wrongdoing

- 4.1** After a disclosure is received by an employee, the Designated Officer must acknowledge receipt of the disclosure within 5 business days
- 4.2** Within 20 business days, the Designated Officer must decide whether or not an investigation is required, and notify the employee who made the disclosure of this decision and the reason for the decision.
- 4.3** An investigation is not required if:
 - a. The subject matter of the disclosure is not jurisdictional under the Act (i.e. the allegations do not constitute wrongdoing defined under the Act);
 - b. The subject matter is frivolous, vexatious or has not been made in good faith;



- c. The disclosure relates to a matter that could more appropriately be dealt with according to the procedures under a collective agreement or employment agreement;
- d. The subject matter of the disclosure is already being investigated by another authority;
- e. The subject matter of the disclosure is currently before the courts;
- f. More than 2 years has passed since the date that the wrongdoing was discovered.

4.4 Employees who are dissatisfied with the Designated Officer's decision may bring the matter to the Public Interest Commissioner.

Investigating disclosures of wrongdoing

- 4.5 The Designated Officer will notify the Chief Officer prior to initiating an investigation into a disclosure of wrongdoing. The Designated Officer may consult with the Chief Officer regarding the management and investigation of the disclosure.
- 4.6 The Designated Officer may request advice from the Commissioner with respect to the management and investigation of a disclosure. Requesting advice from the Commissioner will not result in the Commissioner initiating an investigation into the matter.
- 4.7 The Designated Officer may collect, use and disclose personal information, individually identifying health information, and any other information that is considered necessary to manage and investigation the disclosure of wrongdoing.
- 4.8 The Designated Officer may require any employee to provide any information or record and give written or oral replies to questions, for the purpose of investigating the disclosure.
- 4.9 The Designated Officer may request any individual assist with investigating the disclosure of wrongdoing, including retaining the services of a third party where appropriate.
- 4.10 If during an investigation the Designated Officer has reason to believe that another wrongdoing has been committed or may be committed, the Designated Officer may investigate the wrongdoing and notify the Chief Officer.
- 4.11 If more than one disclosure of wrongdoing is received by a Designated Officer with respect of the same matter, a single investigation may be conducted rather than a separate investigation.
- 4.12 The Designated Officer must conclude an investigation not more than **120 business days** from the date the disclosure of wrongdoing was received. The Chief Officer, with the Commissioner's permission, may extend the time period to complete the investigation that the Commissioner considers to be appropriate in the interest of a fair and efficient outcome.
- 4.13 If the time period has been extended, the employee who submitted the disclosure must be promptly advised of when he or she may expect the next procedural step to occur or be completed.



- 4.14** At the conclusion of an investigation, the Designated Officer must prepare a report for the Chief Officer outlining the allegations investigated, whether the investigation found wrongdoing occurred, and recommendations for corrective measures.
- 4.15** The Chief Officer shall consider the recommendations, implement corrective measures to remedy the wrongdoing, and take appropriate disciplinary action which may include termination of employment.
- 4.16** Employees who are dissatisfied with the outcome of the investigation by their Designated Officer or believe the matter has not been resolved, may bring the matter to the Public Interest Commissioner.

Ensuring procedural fairness

- 4.17** Disclosures of wrongdoing shall be investigated in accordance with the principles of procedural fairness and natural justice. This includes the right of an alleged wrongdoer(s) to be heard, and the right to have the matter investigated in an impartial manner.
- 4.18** Where a disclosure of wrongdoing is determined to have merit, the alleged wrongdoer(s) has the right to know the nature of the allegations made against them. However, this does not include disclosing the identity of the employee who made the disclosure or witnesses who participated in an investigation.
- 4.19** Where a disclosure of wrongdoing is determined to have merit, the Designated Officer must afford the alleged wrongdoer(s) the opportunity to respond to the allegations and the relevant information used to support the allegation. The Designated Officer may receive a response verbally or in writing, and in any manner the Designated Officer determines to be fair and appropriate.
- 4.20** The Designated Officer must recuse themselves from an investigation where they believe they are in a conflict of interest, or when they believe a bias exists. The Chief Officer may appoint an alternate individual to function as the Designated Officer, or may refer the matter to an alternate authority.

Protecting confidentiality

- 4.21** Designated Officers must protect the identity of employees who make disclosures of wrongdoing, individuals alleged to have committed the wrongdoings, and witnesses who participated in investigations.
- 4.22** Designated Officers must maintain all records and information relating to investigations in a secure manner that is not accessible to any other individual.



- 4.23** The Designated Officer may only identify the employee who made the disclosure, the individuals alleged to have committed the wrongdoing, and witnesses who participated in investigations, to:
- individuals who have been requested or retained to assist with the investigation,
 - the Chief Officer, and
 - the Public Interest Commissioner
- 4.24** Any individual requested to assist with an investigation must protect the identity of the individuals involved in the disclosure process, including the employee making the disclosure, individuals alleged to have committed the wrongdoings and witnesses.
- 4.25** Where a wrongdoing has been found, the Chief Officer may identify the wrongdoer(s) to others within the organization or to external authorities for the purpose of taking appropriate corrective action.

Referring disclosures of wrongdoing

- 4.26** The Designated Officer may refer a disclosure of wrongdoing to an alternate authority, including to the Public Interest Commissioner. Factors in considering whether to refer a disclosure of wrongdoing include:
- Whether the subject matter of the disclosure would more appropriately be dealt with by another authority,
 - The complexity of the subject matter of the disclosure,
 - Whether a perceived conflict of interest may exist,
 - The resources and expertise required to conduct a fair and effective investigation,
 - If the subject matter pertains to an individual that supersedes the hierarchical position of the designated officer.
- 4.27** The referral of a disclosure of wrongdoing may only be made if the disclosing employee consents to the referral.

Matters constituting an imminent risk

- 4.28** Notwithstanding any other provision in this procedure, where the subject matter constitutes an imminent risk of a substantial or specific danger to the life, health or safety of individuals, or to the environment, the Designated Officer may, without the consent of the disclosing employee, notify any individual within ASASA Learning in order to be able to appropriately respond to the danger, and notify any appropriate authority required to respond to the danger including calling 911.
- 4.29** The Designated Officer must also notify:



- a. The appropriate law enforcement agency,
- b. In the case of a health-related matter, to the Chief Medical Officer of Health, and
- c. To the department, public entity, or other entity responsible for managing, controlling or containing the risk, if any exists.

4.30 The Designated Officer must suspend any investigation into the matter, and may only resume after any charge relating to an alleged offence, or any investigation by a law enforcement agency or the Minister of Justice and Solicitor General, has been finally disposed of.

Matters involving a possible offence

4.31 If during an investigation the Designated Officer has reason to believe that an offence has been committed under a Provincial or Federal Act or Regulation, the matter must be reported to a law enforcement agency and to the Minister of Justice and Solicitor General as soon as reasonably practicable.

4.32 The Designated Officer must suspend any investigation into the matter, and may only resume after any charge relating to an alleged offence, or any investigation by a law enforcement agency or the Minister of Justice and Solicitor General, has been finally disposed of.

- PART 5 -

ANNUAL REPORTING REQUIREMENTS

5.1 The Chief Officer will prepare a report annually as required by the Act, and include:

- d. The number of disclosures received by or referred to the Designated Officer and the number of disclosures acted on, and the number of disclosures not acted on, by the Designated Officer;
- e. the number of investigations commenced by the Designated Officer;
- f. 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, and
- g. if corrective measures in relation to the wrongdoing have not been taken, the reasons provided.

5.2 The Chief Officers report will be included in the annual report for ASASA Academy.

5.3 The Chief Officer will not publicly identify an employee who requested advice, made a disclosure of wrongdoing or complaint of reprisal, or publically disclose individually identifying health information within the annual report.



Definitions

“Act” means the *Public Interest Disclosure (Whistleblower Protection) Act*

“Chief Officer” means the operator of an independent school, or if the operator is incorporated or registered as a society under the *Societies Act*, the chair of the board of directors of the corporation or society

“Commissioner” means Public Interest Commissioner

“Employee” means an employee of the office of the independent school, or an individual who has suffered a reprisal and is no longer employed by the independent school

“Designated Officer” means the senior official designated by the Chief Officer to manage and investigate disclosures under the Act

“Personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*.

“Reprisal” means a measure taken, directed or counselled contrary to section 24(2) or (3) of the Act.

“Regulation” means the *Public Interest Disclosure (Whistleblower Protection) Regulation*

“Wrongdoing” means a wrongdoing referred to in section 3 of the Act, and includes an alleged wrongdoing

References

Public Interest Disclosure (Whistleblower Protection) Act

Public Interest Disclosure (Whistleblower Protection) Regulation

Public Interest Disclosure (Whistleblower Protection) Transitional Regulation



Appendix 1

DISCLOSURE OF WRONGDOING FORM

TYPE OF WRONGDOING

Which of the below categories does the Wrongdoing apply?*

- Contravention of an Act or a Regulation (Contravention of a Law).
- An act or omission that creates a substantial and specific danger to the life, health or safety of individuals.
- An act or omission that creates a substantial and specific danger to the environment.
- Gross mismanagement of public funds or a public asset.
- Gross mismanagement of the delivery of a public service.
- Gross mismanagement of employees – by a pattern of behavior or conduct of a systemic nature that indicates a problem in the culture of the organization relating to bullying, harassment or intimidation.
- Counselling an individual to commit a wrongdoing mentioned above.

***If none of the above, the Public Interest Disclosure Act does not apply. Consider other internal policies and procedures.**

GENERAL CONTACT INFORMATION

While anonymous complaints may be accepted, you are encouraged to include your name and contact information. For more information about the advantages and disadvantages of making an anonymous complaint, speak with the Designated Officer.

Last Name

Given Names

Title

Work Phone

Other Phone

Email

Name of your School

Branch/Unit/Department (if applicable)



DISCLOSURE DETAILS

Use this area to provide information about the wrongdoing and the person(s) alleged to have committed the wrongdoing. Include if known the following details:

- A description of the wrongdoing
- If known, dates associated with the wrongdoing
- Name and title of the alleged wrongdoer(s)
- Name and title of any other parties involved
- The name of the school where the wrongdoing occurred
- If applicable, the specific division or business unit where the wrongdoing occurred
- Whether you have contacted any other authority in relation to the alleged wrongdoing

Disclosure Details*



Please submit this form and any other supporting documents to the Designated Officer. If you are unable to include all details about the alleged wrongdoing on this form, you may submit further details as a separate document, however please include it when you submit this form.