

**School District #62 (Sooke)**

<b>PUBLIC INTEREST DISCLOSURE - WHISTLEBLOWER PROTECTION</b>	No.: E-158
	Effective: Jan. 26/21 Revised: Jan. 23/24 Reviewed: Nov. 3/20; Nov. 24/20; Jan. 26/21; Dec. 5/23; Dec. 19/23; Jan. 23/24

**PROCEDURAL REGULATIONS**

1.0 Authority

- 1.1 As the Designated Officer for PIDA, the responsibility for the day-to-day administration and enforcement of this policy rests with the Superintendent and CEO as authorized by the Board of Education. The Superintendent may delegate their authority in writing to other members of the School District’s Executive Team to act as a Designated Officer.
- 1.2 The provisions of this policy are independent of and supplemental to the provisions of collective agreements between the Board of Education and its Unions relative to the grievance procedures, and to any other terms and conditions of employment.

2.0 Definitions

- 2.1 Board –the Board of Education of School District No. 62 (Sooke).
- 2.2 Designated Officer - the Superintendent and any other member of the School District’s Executive Team designated under this policy by the Superintendent from time to time.
- 2.3 Disclosure - a report of Wrongdoing made under this policy and includes allegations of Wrongdoing received by the School District from the Ombudsperson or another government institution for investigation in accordance with PIDA.
- 2.4 Employee - all past and present officers, directors and employees of the District.
- 2.5 Good Faith - is evident when a report is made without malice or consideration to personal benefit and the employee has a reasonable basis to believe that the report is true.
- 2.6 Employer – the Board of Education of School District 62 (Sooke).
- 2.7 Ombudsperson - the [Ombudsperson of British Columbia](#).
- 2.8 Protection Official means:
  - a. in respect of a health-related matter, the provincial health officer,
  - b. in respect of an environmental matter, the agency responsible for the Emergency Program Act, orin any other case, a police force in British Columbia.

- 2.9 Reprisal - the imposition of, and any threat to impose, discipline, demotion, termination or any other act that adversely affects employment or working condition of an Employee because they made a Disclosure, sought advice, made a complaint about a Reprisal or participated in an investigation related to PIDA.
- 2.10 Respondent - a person against whom allegations of Wrongdoing or a complaint of Reprisal is made.
- 2.11 Supervisor – A person who supervises a person or activity.
- 2.12 Urgent Risk - arises when there is a reasonable belief 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.
- 2.13 Wrongdoing refers to:
- a. a serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia 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. gross or systematic mismanagement;
  - e. knowingly directing or counselling a person to commit any act or omission described in paragraphs (a) to (d) above.

A wrongdoing may include, but is not limited to:

- f. an unlawful act, civil or criminal.
- g. abuse or an imbalance of power.
- h. action detrimental to students or staff of the District.
- i. questionable accounting practices.
- j. falsifying District records.
- k. theft of cash, goods, services, time or fraud.
- l. inappropriate use of Board funds or assets.
- m. decision making for personal gain.
- n. dangerous practices likely to cause physical harm, or damage to District property.
- o. retaliation, repercussion or reprisal for reporting under this policy.

### 3.0 Duty to Disclose

- 3.1 The Board of Education encourages any Employee who is aware of or witness to a Wrongdoing to make a Disclosure to any of the following:
- a. that person's Supervisor;
  - b. the Superintendent;
  - c. a Designated Officer other than the Superintendent; or
  - d. The Ombudsperson.

The District will investigate the matter and take actions appropriate to the circumstances. Employees can expect that matter will be treated in confidence, unless disclosure of the information is authorized or required by law [for example under the Freedom of Information and Protection of Privacy Act (FOIPPA) or Court

subpoena].

- 3.2 Reports received from members of the public or from Employees who were not employed by or held office with the School District at the time that the alleged Wrongdoing occurred or was discovered are outside the scope of the policy and the associated procedural regulation.

#### 4.0 Protection of Employee and Employer

##### Employee

- 4.1 Any Employee shall not be subject to discipline or Reprisal for bringing forward a Disclosure to a Supervisor if they:
  - a. believe it to be substantively true.
  - b. provides information in Good Faith.
  - c. does not act maliciously or make false allegations.
  - d. does not seek any personal or financial gain.
- 4.2 All reports under this policy will be handled with strict confidentiality and personally identifiable information from the report will only be shared to the extent necessary to conduct a complete and fair investigation according to the law.
- 4.3 If an investigation reveals that the report was frivolously made or undertaken for improper motives or made in bad faith or without reasonable and probable basis, disciplinary action may be taken.

##### Employer

- 4.4 Nothing in this policy shall be deemed to diminish or impair the rights of the District to manage its employees under any policy or collective agreement; or to prohibit any personnel action which otherwise would have been taken regardless of the reporting of the information.

#### 5.0 Making a Disclosure

- 5.1 A Disclosure must be submitted in writing using the Disclosure Form (see Appendix A) and include the following information, if known:
  - a. a description of the Wrongdoing;
  - b. the name of the person(s) alleged to be responsible for or to have participated in the Wrongdoing;
  - c. the date or expected date of the Wrongdoing;
  - d. if the Wrongdoing relates to an obligation under a statute or enactment, the name of that statute or enactment; and
  - e. whether the Wrongdoing has already been reported, and if so, to whom and a description of the response received.
- 5.2 An Employee who is considering making a Disclosure may request advice from:
  - a. the Employee's union representative or employee association representative, as applicable,
  - b. a lawyer,
  - c. the Employee's Supervisor,
  - d. a Designated Officer, or

e. the Ombudsperson.

5.3 A Disclosure may be submitted to the School District on an anonymous basis but must contain sufficient information to permit the School District to conduct a full and fair investigation into the alleged Wrongdoing. If a Disclosure does not contain sufficient detail to permit an investigation, the School District may take no action with respect to the Disclosure. Any notices required to be given to an Employee under this policy or PIDA will not be provided to an anonymous person, except at the discretion of the Superintendent or Designated Officer and where the person has provided contact information. It is important for Employees making a Disclosure to understand that the investigation of a Disclosure will be most effective if they have provided their name and contact information.

5.4 PIDA permits Employees to make public disclosures if the Employee reasonably believes that a matter poses an Urgent Risk. An Urgent Risk only arises if there is reasonable and credible evidence of an imminent risk of a substantial and specific danger to the life, health or safety of persons or to the environment. Before making a public disclosure of an Urgent Risk the Employee must:

- a. consult with the relevant Protection Official;
- b. receive and follow the direction of that Protection Official, including if the Protection Official directs the Employee not to make the public disclosure;
- c. refrain from disclosing, publishing or otherwise sharing personal information except as necessary to address the Urgent Risk;
- d. refrain from disclosing any information that is privileged or subject to a restriction on disclosure under PIDA or any other enactment of British Columbia or Canada, including legal advice privilege, litigation privilege or another ground of common law privilege; and
- e. seek appropriate advice if uncertain about what personal information, privileged or other information may be disclosed as part of a public disclosure.
- f. notify the Superintendent or other Designated Officer.

5.5 If the Employee decides not to make a public disclosure or is directed by a Protection Official not to do so, the Employee is nevertheless expected to report Urgent Risks without delay to the Superintendent or a Designated Officer.

## 6 Investigation

6.1 Every person who receives a Disclosure under this policy must promptly refer it, including all Disclosures Forms and other materials supplied, to the Superintendent or appropriate Designated Officer as follows:

- a. Unless the allegations concern alleged Wrongdoing by the Superintendent, the Disclosure shall first be referred to the Superintendent who may delegate their duties under the policy and this Procedure to any other Designated Officer;
- b. If the allegations concern alleged Wrongdoing by the Superintendent, then the Disclosure should be referred to Office of the Ombudsperson.

6.2 Every person involved in receiving, reviewing and investigating Disclosures must

carry out those functions in an expeditious, fair and proportionate manner as appropriate in the circumstances and as required under PIDA.

- 6.3 The School District shall seek to complete all investigations within ninety (90) calendar days of receipt of a Disclosure, but the Superintendent or Designated Officer may shorten or extend this time period depending on the nature and complexity of the allegations.
- 6.4 Upon receiving a Disclosure, the Superintendent or Designated Officer will record the receipt of the Disclosure and determine whether the matter is, in fact, a Wrongdoing under this policy. If the Superintendent or Designated Officer determines that the Disclosure is a legitimate Wrongdoing, the Superintendent or Designated Officer will open a file and commence an investigation.
- 6.5 The investigation generally will include, but will not be limited to, discussions with the reporting Employee, the party against whom the allegations have been made and witnesses, as appropriate. Employees shall not obstruct or impede any investigation. Reasonable actions will be taken to prevent Reprisal against anyone making a Disclosure in Good Faith or participating in an investigation.
- 6.6 The Superintendent or Designated Officer may expand the scope of any investigation beyond the allegations set out in the Disclosure to ensure that any potential Wrongdoing discovered during an investigation is investigated.
- 6.7 The Superintendent or Designated Officer may enlist Senior Management and/or legal, accounting or other advisors, as appropriate, to assist in conducting any investigation. All investigators shall be independent and unbiased both in fact and appearance. Investigators have a duty of fairness, objectivity, thoroughness and observance of legal and professional standards.
- 6.8 The Superintendent or Designated Officer may consult with the Ombudsperson regarding a Disclosure or refer allegations of Wrongdoing in whole or in part to the Ombudsperson, provided that notice of the referral is provided to the Employee who made the Disclosure.
- 6.9 The Superintendent or Designated Officer may refuse to investigate or postpone or stop an investigation if the Superintendent or Designated Officer reasonably believes that:
  - a. the Disclosure does not provide adequate particulars of the Wrongdoing;
  - b. the Disclosure is frivolous or vexatious, has not been made in Good Faith, has not been made by a person entitled to make a Disclosure under this policy or PIDA, or does not deal with Wrongdoing;
  - c. the investigation would serve no useful purpose or could not reasonably be conducted due to the passage or length of time between the date of the alleged Wrongdoing and the date of the Disclosure;
  - d. the investigation of the Disclosure would serve no useful purpose because the subject matter of the Disclosure is being, or has been, appropriately dealt with;
  - e. the Disclosure relates solely to a public policy decision;
  - f. the allegations are already being or have been appropriately investigated by the Ombudsperson, the School District or other appropriate authority;
  - g. the investigation may compromise another investigation; or
  - h. PIDA otherwise requires or permits the School District to suspend or stop the

investigation.

- 6.10 Subject to the School District's obligations under FOIPPA and this procedure, the Employee making a Disclosure and the Respondent(s) will be provided with a summary of the School District's findings, including:
  - a. notice of any finding of Wrongdoing;
  - b. a summary of the reasons supporting any finding of Wrongdoing;
  - c. any recommendations to address findings of Wrongdoing.
- 6.11 It is the obligation of all Employees to cooperate in any investigation. Those responsible for the investigation will maintain confidentiality of the allegations and the identity of the person involved, subject to the need to conduct a full and impartial investigation and review any violations of the law or the Board's policies.
- 6.12 If an investigation establishes that an Employee has engaged in a Wrongdoing, the Board will take immediate and appropriate corrective action.

## 7 Annual Report

- 7.1 Each year, the Superintendent shall prepare, in accordance with the requirements of PIDA, and make available, a report concerning any Disclosures received, investigations undertaken and findings of Wrongdoing. All reporting under this policy will be in compliance with the requirements of FOIPPA. The summary will include reports received and acted upon during the school year, July 1<sup>st</sup> to June 30<sup>th</sup>.

# Appendix A

## E-158 Public Interest Disclosure Policy - Disclosure Form

### INSTRUCTIONS

Before filling out this Public Interest Disclosure Form, please review the School District's Public Interest Disclosure [Policy](#) and [Procedures](#). Please also ensure that you provide all required details and attach copies of any documents you wish to submit as part of your report. The completed form (together with all attachments) may be submitted by:

email to: [pida@sd62.bc.ca](mailto:pida@sd62.bc.ca)

or

mail to:

Attn: Superintendent  
School District #62 (Sooke)  
3143 Jacklin Road  
Langford, BC V9B 5R1

### PRIVACY STATEMENT

The personal information submitted in this Public Interest Disclosure Form is collected by the School District under sections 26(a) and (c) of the Freedom of Information and Protection of Privacy Act, and will be used to assess, review, investigate and respond to allegations of wrongdoing made under the Public Interest Disclosure Act. If you have any questions about the collection, use or disclosure of your personal information in connection with your disclosure, please contact the Superintendent at [pida@sd62.bc.ca](mailto:pida@sd62.bc.ca) or (250) 474-9811.

### CONFIDENTIALITY

Reports made under the Public Interest Disclosure Act are received and held in confidence by the School District. The reports and information received will be used and shared only to the extent reasonable and necessary to assess, investigate and respond to your disclosure and will not be used or disclosed for other purposes except as permitted or required under the Freedom of Information and Protection of Privacy Act and the Public Interest Disclosure Act or other applicable laws.

### COMPLETING THE DISCLOSURE FORM

The purpose of this Public Interest Disclosure Form is to assist you in making a disclosure under the Public Interest Disclosure Act. The requested information is to ensure we have sufficient information to carefully review, investigate and respond to your disclosure. If you are unable to provide all requested details at the time you make your initial disclosure, you may ask to submit additional details at a later time.

# PUBLIC INTEREST DISCLOSURE REPORT

1. Are you a current employee of School District #62 (Sooke)?

Yes                       No

2. Were you an employee of School District #62 (Sooke) when the alleged wrongdoing occurred or was discovered?

Yes                       No

3. Please enter your contact information below so that we can communicate with you about your disclosure. Your identity and contact information may be shared with investigators to allow them to communicate with you.

While anonymous disclosures may be accepted under the Public Interest Disclosure Act, we may not be able to investigate if we are unable to contact you to confirm you are a current or former employee or to obtain further details, evidence or clarification about your disclosure.

NAME	HOME ADDRESS
EMAIL	PHONE
ADDITIONAL INSTRUCTIONS e.g. How would you prefer to be contacted? May we leave messages for you?	

4. A report may be made under the Public Interest Disclosure Act for any of the following categories of wrongdoing. Please check any that apply:

- serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada;
- 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;
- a serious misuse of public funds or public assets;
- gross or systemic mismanagement;
- knowingly directing or counselling a person to commit a wrongdoing described above.

If your report does not fall within one of these categories, you may wish to consider whether your report falls under [another policy or procedure](#) of School District #62 (Sooke).

5. In the space below, please describe the alleged wrongdoing and the person(s) alleged to have committed the wrongdoing. Please provide as much detail as you are able, including:

- A description of the wrongdoing and any relevant background,
- The names of those responsible,
- When and where the wrongdoing occurred,
- Names of people who witnessed the wrongdoing, if available,
- Any law or legislation that has been breached.



DESCRIPTION OF ALLEGED WRONGDOING

6. Have you previously reported the wrongdoing to School District #62 (Sooke)?

Yes                       No

If yes, please indicate who the report was made to and any actions taken.

REPORT DATE AND PERSON REPORTED TO

7. Please describe any other steps or actions that you or others have taken to address, report or prevent the reported wrongdoing.

OTHER ACTIONS TAKEN

8. Do you know of any other organizations that are investigating the reported wrongdoing or whether other complaints or claims about the wrongdoing have been filed (e.g. court filings, grievance, human rights complaint, privacy complaint, police investigation, etc.). Please explain.

OTHER INVESTIGATIONS