



**SECTION 1000 – HUMAN RESOURCES
PUBLIC INTEREST DISCLOSURE
(WHISTLEBLOWER PROTECTION) ACT (PIDA)**

The Board is committed to safeguarding the public interest and trust in public education. The purpose of the act is to allow employees to bring potential wrongdoing to the attention of LSSD so that it can take the appropriate corrective measures. Employees making disclosures with an honest belief and without a malicious or vexatious intent of wrongdoing shall be protected from any form of reprisal (Bill 5 PIDA). Instances of wrongdoing include:

- an act or omission that is an offense under provincial or federal law;
- an act or omission that creates a specific and substantial danger to the life, health or safety of persons or the environment;
- gross mismanagement, including mismanagement of public funds or a public asset such as government property;
- directing or counselling a person to commit a wrongdoing;
- any conflict of interest that benefits a person because of their position in the division.

Anyone other than employees can also make a disclosure of wrongdoing, but they must do so directly to Manitoba Ombudsman.

Obligations of the Superintendent regarding PIDA:

- to establish procedures to manage and investigate disclosures and to ensure a copy of procedures established shall be given to the Ombudsman on request;
- to designate the Manager of Human Resources as the designated officer (DO) to receive and deal with disclosures;
- to ensure that information about PIDA and disclosure procedures are communicated annually and widely to employees;
- to ensure a report is made annually on the number and nature of any disclosures that have been made to supervisors and DO, the number of disclosures acted on and not acted on, and the number of investigations commenced. In the case where wrongdoing was found, a description of the wrongdoing and recommendations or corrective action taken, or reasons why no action was taken. The report shall be shared upon request.

Protection from Reprisals:

Employees who make a disclosure of wrongdoing; seek advice from a supervisor, the Manager of Human Resources or the Manitoba Ombudsman about making a disclosure; or cooperate in a PIDA investigation are protected from reprisal for doing so. A request for advice should be in writing to establish a timeline for reprisal protection. A reprisal means any of the following measures:

- a disciplinary measure;
- a demotion;
- termination of employment (being fired);

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- any measure that adversely affects employment or working conditions;
- a threat to take any of the above measures.

Reprisal is an offence under section 33(4) of the PIDA.

Reprisal complaints can only be made to the Manitoba Ombudsman at:

750 – 500 Portage Avenue
 Winnipeg, MB R3C 3X1
 Phone: 203-982-9130
 Toll-Free: 1-800-665-0531
 Fax: 204-942-7803
 Email: ombudsman@ombudsman.mb.ca www.ombudsman.mb.ca

The Ombudsman will determine if an investigation is warranted and, if so, will make findings and recommendations for corrective action, where appropriate.

Nothing in the PIDA prevents an employee from being subject to appropriate disciplinary action, including termination.

Procedures for Reporting Wrongdoing:

- divisional staff who become aware of wrongdoing may take steps to immediately make a disclosure to a supervisor or the Manager of Human Resources of the division or the Manitoba Ombudsman. If an employee makes a disclosure to their supervisor, the supervisor shall promptly refer the matter to the Manager of Human Resources. The Manager of Human Resources shall recuse themselves from a matter if there is an actual, potential, or perceived conflict of interest or reasonable apprehension of bias on the part of the Manager of Human Resources;
- a person may request advice from the DO (Manager of Human Resources) or the Manitoba Ombudsman before making a disclosure. Employees requesting advice should do so in writing to establish a timeline for reprisal protection.
- disclosures must be reported in writing as required by the PIDA. LSSD forms are available in Employee Connect;
- the DO (Manager of Human Resources), supervisors and any other persons involved in the management of a disclosure shall take reasonable steps to protect the identity of each person involved in the investigation. This includes the person who made the disclosure, witnesses, and any person alleged to be responsible for a wrongdoing. Disclosure files shall be handled in a confidential manner, maintained in a secure location and protected from unauthorized access;

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- anonymous disclosures are more difficult to investigate but shall be acted upon whenever possible;
- under section 15 of PIDA, an employee may disclose information that is otherwise prohibited under another act or regulation;
- disclosures containing allegations of serious or imminent risk shall be acted on immediately by the DO (Manager of Human Resources);
- receipt of a disclosure shall be acknowledged and a timeline for determining whether to investigate shall be established;
- ongoing timelines and status updates shall be communicated with the disclosure;
- disclosures may be made to the public if the situation constitutes imminent risk and there is insufficient time to make a disclosure to a supervisor, the DO (Manager of Human Resources) or Ombudsman. Disclosure to a supervisor or the Manager of Human Resources shall follow immediately after any public disclosure;
- the DO (Manager of Human Resources) is responsible for investigating disclosures of wrongdoing made within the division and setting the period for action. They also handle disclosures referred to them by the Manitoba Ombudsman in which case the ombudsman may inquire about the steps taken to deal with the matter;
- investigations are to be conducted as informally and as expeditiously as possible and the DO (Manager of Human Resources) shall ensure that the principles of procedural fairness and natural justice are applied in the investigation;
- the alleged wrongdoer shall be made aware of the allegations and be given an opportunity to respond;
- all employees are required to cooperate with the DO (Manager of Human Resources) or Manitoba Ombudsman in their investigation;
- the focus of the investigative process is detecting and remedying the wrongdoing, not identifying the discloser or the alleged wrongdoer;
- after the investigation, the DO (Manager of Human Resources) must prepare a report outlining the allegations investigated, whether the investigation found wrongdoing, and make recommendations

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for corrective measures where appropriate. The DO (Manager of Human Resources) must inform the person making the disclosure of the results of the investigation.

The investigative report shall be provided to the Superintendent and shall outline findings and recommendations.

In some cases, disclosures will not be investigated due to certain circumstances – Section 21(1) of the PIDA:

- one case would be if too much time has elapsed between the date when the subject matter of the disclosure arose and the date the disclosure was made so that investigating it would not serve a useful purpose;
- operational, human resources and/or labour-related concerns will not be addressed under PIDA, but may be addressed through other employment/labour processes;
- a disclosure may be referred to the designated officer of another public body (i.e. where the matter relates to another part of the public service or to the Manitoba Ombudsman where the matter is complex, there is a real or perceived conflict of interest, or the matter pertains to an individual that supersedes the hierarchal position of the designated officer as per Section 3 of PIDA).
- disclosures about the DO (Manager of Human Resources) should be made directly to the Manitoba Ombudsman;
- where a decision is made to decline or refer investigation, the decision and the rationale shall be communicated to the discloser as well as any action to be taken. The discloser has the option of making further disclosure to the Manitoba Ombudsman if they are unsatisfied with how the disclosure has been handled.

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