

1.0 ASSOCIATED POLICY

- Safe Disclosure

2.0 DEFINITIONS

Chair

The chair of a Faculty or School department.

Employee

A current employee of the University.

Good Faith Disclosure

An allegation made by a Member of the University Community of Wrongful Conduct that is based on an objective and reasonable belief that such conduct has occurred or is about to occur, and is not malicious, frivolous or vexatious or made with reckless disregard for facts that would disprove the allegation.

Members of the University Community

Those persons involved in conducting University affairs or using University property (all students, employees, contractors, volunteers, and all visitors while they are on University property or are using University property).

Reprisal

Any adverse action, or threat of an adverse action, taken against a Member of the University Community because that person has made a Good Faith Disclosure, supported the filing of a Good Faith Disclosure, participated in an investigation of a Good Faith Disclosure, declined to participate in Wrongful Conduct, or doing anything in accordance with this policy, which may include:

- (a) a dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination/abolishment of a job, change of job location, reduction in wages, change in hours of work or other terms of employment, or reprimand;
- (b) any measure, other than one mentioned in (a) above, that adversely affects the Employee's employment or working conditions (eg. Bullying or intimidation); or
- (c) a threat to take any of the measures mentioned in (a) or (b) above.

Legitimate and reasonable efforts to address performance or behavioural issues do not constitute Reprisal.

Responsible Office

A unit within the University with responsibility for, and expertise in, handling certain specialized types of conduct concerns.

Safe Disclosure

Persons are not subject to Reprisal for making a Good Faith Disclosure.

Senior Administrator

The president, vice presidents, deans, directors and equivalent positions.

Serious Misconduct

A subset of Wrongful Conduct governed by the *Public Interest Disclosure (Whistleblower Protection) Act*, which means the following acts or conduct engaged in by an Employee:

- (a) a violation of a provincial or federal act or regulation;
- (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 wilful 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 to the *Public Interest Disclosure (Whistleblower Protection) Act*, including the duties resulting from the contract or arrangement or any funds administered or provided under the contract or arrangement, 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 counseling an individual to commit Serious Misconduct; or
- (e) conduct which is considered a Reprisal.

Supervisor

An Employee's direct supervisor.

Wrongful Conduct

The following acts or conduct engaged in by a Member of the University Community:

- (a) conduct which does not meet and comply with the University's legal, fiscal and ethical behaviour standards;
- (b) conduct which is considered a Reprisal;
- (c) a violation of a provincial or federal act or regulation;
- (d) a serious violation of University policy;
- (e) 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;
- (f) gross mismanagement, including an act or omission that is deliberate and that shows a reckless or wilful 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 to the *Public Interest Disclosure (Whistleblower Protection) Act*, including the duties resulting from the contract or arrangement or any funds administered or provided under the contract or arrangement, 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.
- (g) the use of University property, resources or authority for personal gain or other non-University purpose, except as provided for under University policy; or
- (h) knowingly directing or counseling an individual to commit Wrongful Conduct

and includes Serious Misconduct.

3.0 PROCEDURE ELEMENTS

3.1 Reporting Concerns of Wrongful Conduct

- 3.1.1 Any Member of the University Community who in good faith believes that Wrongful Conduct will occur, is occurring, or has occurred at the University should report their concern in accordance with this procedure. People need not know the details of a law or policy or be certain about a violation before reporting. If unsure, the Member of the University Community should report the potential Wrongful Conduct and seek advice.
- 3.1.2 All Members of the University Community are required by provincial law to report to Child Intervention Services immediately when they have reasonable and probable grounds to believe a minor child is being physically or sexually abused or neglected, including abuse or neglect by non-University persons, whether or not the incident occurred during a University activity or on University property.
- 3.1.3 Except where required to report to a prescribed entity under provincial or federal law, concerns of Wrongful Conduct can be reported to any of the following:
- 3.1.3.1 A Supervisor or Chair, unless an individual:
 - 3.1.3.1.1 is not comfortable speaking with the Supervisor or Chair;
 - 3.1.3.1.2 is not satisfied with the Supervisor's or Chair's response; or
 - 3.1.3.1.3 the subject matter of the Wrongful Conduct is such that the Member of the University Community believes the report should go to a Responsible Office;
 - 3.1.3.2 A Responsible Office as follows:

- 3.1.3.2.1 the Senior Administrator in charge of Internal Audit Services where the Wrongful Conduct involves financial matters;
- 3.1.3.2.2 the Senior Administrator in charge of Health, Safety and Environment where the Wrongful Conduct involves environmental safety/OH&S concerns;
- 3.1.3.2.3 the Senior Administrator in charge of Security Services where the Wrongful Conduct involves security or personal safety concerns;
- 3.1.3.2.4 the Senior Administrator in charge of Human Resources where the Wrongful Conduct involves employment concerns;
- 3.1.3.2.5 the Senior Administrator in charge of Student Affairs where the Wrongful Conduct involves a student related matter, including academic integrity concerns;
- 3.1.3.2.6 the Senior Administrator in charge of Research Services where the Wrongful Conduct involves research matters or matters of academic integrity related to research and scholarly activity;
- 3.1.3.2.7 Office of General Counsel where the Wrongful Conduct involves Serious Misconduct, Reprisal, where the underlying conduct is not Serious Misconduct, conduct by a Senior Administrator, a situation that may require the University to self-report a violation to an outside agency or entity or pay a significant financial penalty, or any other matter not otherwise mentioned above;
- 3.1.3.3 the Alberta Public Interest Commissioner, at any time at the discretion of the Member of the University Community where the Wrongful Conduct is Serious Misconduct; or
- 3.1.3.4 Confidence Line, where the individual wishes to remain anonymous, has concerns about reporting elsewhere, or is otherwise unsure of how to raise a concern of Wrongful Conduct.
- 3.1.4 Concerns of Reprisal, where the underlying conduct is Serious Misconduct, must be reported directly to the Alberta Public Interest Commissioner using the Complaint of Reprisal Form prescribed pursuant to the *Public Interest Disclosure (Whistleblower Protection) Regulation*.
- 3.1.5 Maintaining confidentiality and protecting the anonymity of the reporter is a priority of the University. If the person making the report of Wrongful Conduct self-identifies, but wishes to remain anonymous, his or her identity should not be disclosed except:
 - 3.1.5.1 when an employee's job responsibilities reasonably require knowledge for the purpose of an investigation or management of a matter;
 - 3.1.5.2 when required for investigation or resolution of the report; or
 - 3.1.5.3 where permitted or required by law or legal process (e.g., law enforcement, court subpoena).

- 3.1.6 Where the identity of the person making the report of Wrongful Conduct must be disclosed, the reporter will be advised that it is not possible to provide anonymity.
- 3.1.7 The University will provide support as appropriate to ensure fair treatment of employees and students making reports, which may include appointing someone to serve as a liaison to communicate with the reporting party.

3.2 Safe Disclosure

- 3.2.1 Reprisal for Good Faith Disclosure, or for seeking advice about potential Wrongful Conduct, is prohibited.
- 3.2.2 Supervisors, Chairs, or Responsible Offices handling reports will inform the person making the report about the University's prohibition against Reprisal.
- 3.2.3 Members of the University Community who become aware of a Reprisal will report to the General Counsel, who will respond in accordance with the University's Public Interest Disclosure Framework.

3.3 Protection for Subjects of a Report

- 3.3.1 Individuals who are subjects of a report will be treated fairly, respectfully, and consistent with all protections set out in University policy or law. To ensure fair treatment, those accused of Wrongful Conduct or Serious Misconduct will be:
 - 3.3.1.1 notified about the nature of the allegations as soon as the Supervisor, Chair, or Responsible Office responsible for investigating concludes it will not risk the integrity of the investigation; and
 - 3.3.1.2 kept informed of the investigation status and the results unless to do so would jeopardize an ongoing investigation.

3.4 Responding to a Report of Wrongful Conduct

- 3.4.1 Persons receiving a report of Wrongful Conduct shall:
 - 3.4.1.1 promptly evaluate the issues raised;
 - 3.4.1.2 refer the matter to the most appropriate office or individual; and
 - 3.4.1.3 alert the General Counsel where the report alleges a significant legal or policy violation.
- 3.4.2 Persons receiving a report of Wrongful Conduct involving a matter of imminent risk, or Serious Misconduct, including a criminal offence, must direct the report immediately to the General Counsel, who will address the matter pursuant to this procedure and the Public Interest Disclosure Framework.
- 3.4.3 A Supervisor or Chair receiving a report of Wrongful Conduct relating to the area of expertise of a Responsible Office must notify the Responsible Office of the matter before

taking further action, refer the matter as appropriate, and collaborate as requested. Responsible Offices will work together to avoid duplication of efforts.

- 3.4.4 A Supervisor, Chair, or Responsible Office receiving a report of Wrongful Conduct engaged in by a faculty member must notify the Dean for further handling.
- 3.4.5 If a report of Wrongful Conduct is minor and the solution is straightforward without the need for substantial investigation, the person handling the report will promptly resolve the concern, including:
 - 3.4.5.1 implementing a solution;
 - 3.4.5.2 taking corrective action, where required;
 - 3.4.5.3 protecting the rights of involved parties;
 - 3.4.5.4 notifying appropriate individuals of the issue and resolution; and
 - 3.4.5.5 maintaining proper documentation.
- 3.4.6 Reports of Wrongful Conduct will be addressed by Supervisors, Chairs, or Responsible Offices in accordance with the appropriate related policies and procedures.

3.5 Responding to a Report of Serious Misconduct

- 3.5.1 On receiving a report of Serious Misconduct, the General Counsel, will address the matter pursuant to the Public Interest Disclosure Framework, which includes:
 - 3.5.1.1 Referring the Serious Misconduct to the Alberta Public Interest Commissioner or another third party as needed;
 - 3.5.1.2 Ensuring there is proper investigation into the Serious Misconduct;
 - 3.5.1.3 Ensuring appropriate corrective action is determined and applied; and
 - 3.5.1.4 Reporting statistics related to reports of Serious Misconduct and the outcomes of investigations.

3.6 Confidentiality and Reporting

- 3.6.1 Persons receiving or handling reports will respect the confidentiality of the person making the report, individuals who are the subjects of the report, and any confidential or private data disclosed in the report. Protected reports and investigatory records will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation and in accordance with any applicable legislative requirements.
- 3.6.2 The University's Senior Administrator in charge of Internal Audit Services and the General Counsel will ensure that the President and the Audit Committee of the Board of Governors are informed of concerns about any widespread or serious violations or law or University policy, significant accounting concerns, or other matters that in their judgment represent a particularly significant compliance concern.

- 3.6.3 The General Counsel will prepare a report for inclusion in the annual report of the University in accordance with the *Public Interest Disclosure (Whistleblower Protection) Act*.
- 3.6.4 The annual report will be compiled in accordance with *Freedom of Information and Protection of Privacy Act* (FOIPP) and other applicable legislation, University policies, and collective agreements in effect at the time of the alleged Wrongful Conduct, and will not identify an Employee who requested advice about reporting Wrongful Conduct, or reported Wrongful Conduct.

4.0 RELATED POLICIES, PROCEDURES, FORMS AND OTHER DOCUMENTS

- Board of Governors Bylaws and Code of Conduct
- Employee Code of Conduct
- Fraud and Irregularities Policy
- Health and Safety Policy
- Violence in the Workplace Policy
- Student Academic Integrity Policy
- Student Rights and Responsibilities Policy
- Student Discipline
- Student Appeals Policy
- Research, Scholarship and Creative Activity Policy
- Responsible Conduct of Research and Scholarly Activity Policy
- Ethical Review of Research with Human Participants Policy
- Animal Research Ethics Policy
- Public Interest Disclosure (Whistleblower Protection) Framework

5.0 ACCOUNTABILITY

Responsible Office
Office of General Counsel

6.0 HISTORY

Relevant Dates

Approved: **23.11.08**

Effective: **23.11.08**

Next Review: **28.11**

Modification History

14.10.29 This is a new procedure to support the Safe Disclosure Policy.

18.09.05: Revised to account for amendments to applicable legislation. Title also changed (formerly called Reporting Allegations of Wrongful Conduct Procedure). Approved by President's Policy Committee.

21.10.27: Minor revision to update position titles. Approved by Policy Sponsor.

23.11.08: Periodic review resulted in minor revisions. Approved by Policy Sponsor.