

Vancouver Island West School District 84

ADMINISTRATIVE PROCEDURE

AP 415

Adopted: Oct 10, 2023

PUBLIC INTEREST DISCLOSURE

Purpose

The Board of Education of School District No. 84 (Vancouver Island West) is committed to honesty, integrity and accountability in its operations, programs and services, and to promoting a culture of openness and transparency. The School District encourages and supports all personnel in bringing forward reports of unlawful acts and acts of wrongdoing in a manner consistent with the provisions of the British Columbia *Public Interest Disclosure Act* ("PIDA").

The purpose of this Procedure is to establish a process, in compliance with PIDA, for employees and trustees to report, in good faith, wrongful or unlawful conduct without fear of retaliation or reprisal.

Scope of Procedure

This Procedure applies to alleged wrongdoing related to the School District's operations or personnel. This Procedure does not displace other mechanisms set out in School District Policy and/or Procedure for addressing and enforcing standards of conduct, disputes, complaints, or grievances, including issues of discrimination, bullying and harassment, occupational health and safety, or disputes over employment matters or under collective agreements.

I. Definitions

In this Procedure, the following capitalized terms are defined as indicated:

1. "**Advice**" means advice that may be requested in respect of making a Disclosure or a complaint about a Reprisal under this Procedure or PIDA;
2. "**Designated Officer**" means the Superintendent/Secretary-Treasurer and any other senior member of the School District designated by the Superintendent/Secretary-Treasurer from time to time, which includes, in accordance with section V. of this Procedure, the Assistant Secretary Treasurer, Director of Instruction (Human Resources), and the Chair of the Board of Education;
3. "**Discloser**" means an Employee or Trustee who makes a Disclosure or seeks Advice or makes a complaint about a Reprisal;
4. "**Disclosure Form**" means the form attached to this Procedure as Appendix 1.
5. "**Employee**" refers to a past and present employee of the School District;
6. "**FIPPA**" means the *Freedom of Information and Protection of Privacy Act*, and all regulations thereto;

7. **“Investigation”** means an investigation undertaken by the School District under this Procedure or by the Ombudsperson under PIDA;
8. **“Ombudsperson”** means the Ombudsperson of British Columbia;
9. **“Personal Information”** has the same meaning set out in FIPPA, namely “recorded information about an identifiable individual”, and includes any information from which the identity of the Discloser or any person who is accused of Wrongdoing or participates in an Investigation can be deduced or inferred;
10. **“PIDA”** means the *Public Interest Disclosure Act* of British Columbia, and all regulations thereto;
11. **“Procedure”** means the School District’s Administrative Procedure;
12. **“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*, or
 - c. in any other case, a police force in British Columbia.
 1. **“Respondent”** means a person against whom allegations of Wrongdoing or a complaint of reprisal is made;
 2. **“School”** means
 - a. a body of students that is organized as a unit for educational purposes under the supervision of a principal, vice principal or director of instruction
 - b. the teachers and other staff members associated with the unit, and
 - c. the facilities associated with the unit,
 and includes a Provincial resource program and a distributed learning school operated by a board;
 3. **“Supervisor”** includes
 - a. an Employee’s direct management supervisor,
 - b. for School-based Employees, the Principal or any Vice-Principal at the School where the Employee is assigned; and
 - c. for Trustees, the Board Chair or the Superintendent/Secretary-Treasurer;
 4. **“Urgent Risk”** arises 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.
13. **“Reprisal”** means 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 or Trustee because they made a Disclosure, sought Advice, made a complaint about a Reprisal or participated in an Investigation;
14. **“Trustee”** means a past or present member of the School District’s Board of Education; and

15. **“Wrongdoing”** refers to:

1. a serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada;
2. 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;
3. a serious misuse of public funds or public assets;
4. gross or systematic mismanagement;
5. knowingly directing or counselling a person to commit any act or omission described in paragraphs (a) to (d) above.

II. Statement of Principles

- The School District is committed to supporting ethical conduct in its operations, and seeks to foster a culture in which Employees and Trustees are encouraged to disclose Wrongdoing, including by receiving, investigating and responding to Disclosures and by providing information and training about PIDA and this Procedure.
- The School District will investigate Disclosures that it receives under this Procedure. Investigations under this Procedure will be carried out in accordance with the principles of procedural fairness and natural justice.
- The School District will not commit or tolerate Reprisals against any Employee or Trustee who, in good faith, makes a request for Advice, makes a Disclosure, participates in an Investigation or makes a complaint under this Procedure.
- The School District is committed to protecting the privacy of Disclosers, persons accused of Wrongdoing and those who participate in Investigations in a manner that is consistent with its obligations under PIDA and FIPPA.

III. Privacy and Confidentiality

All Personal Information that the School District collects, uses or shares in the course of receiving or responding to a Disclosure, a request for Advice, a complaint of a Reprisal, or conducting an Investigation will be treated as confidential and will be used and disclosed as described in this Procedure, PIDA or as otherwise permitted or required under FIPPA and other applicable laws.

IV. Reporting

Each year, the Superintendent/Secretary-Treasurer or designate 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 Procedure will be in compliance with the requirements of FIPPA.

V. Responsibility

The Superintendent/Secretary-Treasurer or designate is responsible for the administration of this Procedure, and shall ensure that training and instruction is available to all Employees and Trustees concerning this Procedure and PIDA.

The Superintendent/Secretary-Treasurer may delegate their authority to other senior members of the School District.

VI. Who May Make a Disclosure

1. Any Employee may report Wrongdoing under this Procedure if the alleged Wrongdoing occurred or was discovered while the Employee was employed or engaged by the School District.
2. Any Trustee may report Wrongdoing under this Procedure if the alleged Wrongdoing occurred or was discovered while the Trustee was holding office.
3. Reports received from members of the public or from Employees or Trustees 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 Procedure.

VII. How to Make a Disclosure

1. An Employee or Trustee who reasonably believes that a Wrongdoing has been committed or is about to be committed may make a Disclosure to any of the following:
 - a. that person's Supervisor;
 - b. the Superintendent/Secretary-Treasurer;
 - c. a Designated Officer other than the Superintendent/Secretary-Treasurer; or
 - d. The Ombudsperson.
2. A Disclosure should be submitted in writing using the Disclosure Form (Appendix 1) or in other written form, 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.
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 investigation, the School District may take no action with respect to the Disclosure. Any notices required to be given to a Discloser under this Procedure or PIDA will not be provided to an anonymous Discloser, except at the discretion of the Designated Officer and where the Disclosure has provided contact information.

4. A Discloser who is considering making a Disclosure may request Advice from any of their union representative or employee association representative, a lawyer, their Supervisor, a Designated Officer, or the Ombudsperson.
5. A Discloser should not make a Disclosure to a person if the allegations relate, in whole or in part, to alleged Wrongdoing by that person, and any person who receives a Disclosure and reasonably believes that the allegations of Wrongdoing relate to their own acts or omissions must refer the allegations of Wrongdoing to another person under this Procedure with responsibility for receiving a Disclosure.

VIII. How to Make a Disclosure About Urgent Risk

1. PIDA permits Employees and Trustees to make public disclosures if the Employee or Trustee 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.
2. Before making a public disclosure of an Urgent Risk the Employee or Trustee must:
 - a. consult with the relevant Protection Official (public health officer, Emergency Management BC, or police),
 - 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.
3. An Employee or Trustee who makes a public disclosure in relation to an Urgent Risk is expected to provide timely notification to their Supervisor or the Superintendent/Secretary-Treasurer or designate about the public disclosure or submit a Disclosure in accordance with section III. above.
4. If the Employee or Trustee decides not to make a public disclosure or is directed by a Protection Official not to do so, the Employee or Trustee is nevertheless expected to report Urgent Risks without delay to the Superintendent/Secretary-Treasurer or a Designated Officer.

IX. Referral to Designated Officer

1. Each Supervisor and any other Employee or Trustee who receives a Disclosure under this Procedure must promptly refer it, including all Disclosures Forms and other materials supplied, to the appropriate Designated Officer as follows:
 - a. Unless the allegations concern alleged Wrongdoing by the Superintendent/Secretary-Treasurer, the Disclosure shall first be referred to the Superintendent/Secretary-Treasurer who may delegate their duties under the Procedure to any other Designated Officer;
 - b. If the allegations concern alleged Wrongdoing by the Superintendent/Secretary-Treasurer, then the Disclosure should be referred to Office of the Ombudsperson.

X. Responsibilities of the Designated Officer

1. The Designated Officer is responsible to:
 - a. Receive and respond to any Disclosure;
 - b. Receive and respond to reports made about Urgent Risks;
 - c. If the Designated Officer reasonably believes that an Urgent Risk exists, the Designated Officer may make a report to the relevant Protection Official;
 - d. Review allegations of Wrongdoing in a Disclosure and determine if they fall within the scope of PIDA or the Procedure;
 - e. Refer disclosures or allegations falling outside the scope of PIDA or this Procedure to the appropriate authority or dispute resolution process, as applicable;
 - f. If a Disclosure relates to Wrongdoing at another government body that is subject to PIDA, refer the Disclosure to that institution;
 - g. Seek clarification of the allegations of Wrongdoing from the Discloser or referring institution as needed;
 - h. If appropriate, initiate an Investigation into allegations of Wrongdoing in accordance with section VIII. below;
 - i. Assess the risk of any Reprisal to the Discloser, and take appropriate action, if any, to mitigate that risk;
 - j. Manage communications with the Discloser and Respondent;
 - k. Notify the Discloser and the Respondent of the outcome of the Investigation in accordance with section VIII. 8.; and
 - l. Ensure that, in accordance with section IX. of this Procedure, all Personal Information received by the School District related to the Disclosure, request for Advice or any Investigation is appropriately protected against such risks as unauthorized access, collection, use, disclosure, theft or loss in accordance with FIPPA and PIDA.

XI. Responsibilities of Employees and Trustees

1. All Employees and Trustees are responsible to:
 - a. make any Disclosures in good faith and on the basis of a reasonable belief that Wrongdoing has or is expected to occur;
 - b. refrain from engaging in Reprisals and report all Reprisals in accordance with this Procedure and PIDA;
 - c. maintain the confidentiality of Personal Information received in connection with a Disclosure, request for Advice or Investigation in accordance with the Procedure, and PIDA;
 - d. provide their reasonable cooperation with investigations by the School District or the Ombudsperson;
 - e. seek appropriate advice if uncertain about whether to make a Disclosure or a public disclosure of an Urgent Risk; and
 - f. comply with the requirements of this Procedure and PIDA concerning Urgent Risks.

XII. Investigations

1. Every person involved in receiving, reviewing and investigating Disclosures must carry out those function in an expeditious, fair and proportionate manner as appropriate in the circumstances and as required under PIDA.
2. The School District shall seek to complete all Investigations within 90 calendar days of receipt of a Disclosure, but the Designated Officer may shorten or extend this time period depending on the nature and complexity of the allegations.
3. The 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.
4. All Investigations shall be conducted by an internal or external investigator with sufficient qualifications and experience to carry out the Investigation, though overall responsibility and accountability for the Investigation remains with the Designated Officer.
5. The 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 applicable Discloser.
6. The Designated Officer may refuse to investigate or postpone or stop an Investigation if the 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 the Procedure 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.
7. Subject to the School District's obligations under FIPPA and section III. 3. above, the Discloser 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.

XIII. Privacy and Confidentiality

1. All Personal Information that the School District collects, uses or shares in connection with a Disclosure, request for Advice, or an Investigation shall be treated as confidential and shall be used and disclosed by the School District only as described in the Procedure and PIDA unless otherwise permitted or required under FIPPA or other applicable laws.
2. Personal Information that is collected, used or shared by the School District in the course of receiving, responding to or investigating a Disclosure or a request for Advice Reprisal shall be limited to the Personal Information that is reasonably required for these purposes.
3. Any person who, in their capacity as an Employee or Trustee, receives information about the identity of a Discloser shall maintain the identity of the Discloser in confidence, and may only use or share that information for the purposes described in this Procedure or PIDA, except with the consent of the Discloser or as authorized or required by PIDA or other applicable laws.
4. The School District shall ensure there are reasonable security measures in place to protect all Personal Information that the School District collects or uses in the course of receiving or responding to a Disclosure, a request for Advice, or conducting an Investigation, including by ensuring that such information is subject to appropriate controls to ensure that it is only shared by its employees and trustees internally on a need-to-know basis.

XIV. Reprisals

1. The School District will not tolerate Reprisals against Employees or Trustees.
2. Any Employee or Trustee who believes that they have been the subject of a Reprisal may make a complaint to the Ombudsperson, who may investigate in accordance with the procedures set out in PIDA.
3. Any person who engages in any Reprisals shall be subject to disciplinary action up to and including, for an Employee, dismissal for cause.

Reference: Sections 17, 18, 20, 22, 23, 65, 85 *School Act*
Freedom of Information and Protection of Privacy Act
Public Interest Disclosure Act
SD84 Public Interest Disclosure Form sd84.bc.ca/wp-content/uploads/2023/10/School-District-84-PIDA-Disclosure-Form.pdf

APPENDIX 1



School District 84 Vancouver Island West

Box 100, #2 Highway 28, Gold River, BC V0P 1G0
Office: 250-283-2241 Fax: 250-283-7352
www.sd84.bc.ca

Public Interest Disclosure Form

INSTRUCTIONS

Before filling out this Public Interest Disclosure Form, please review the School District's Public Interest Disclosure Administrative Procedure sd84.bc.ca/wp-content/uploads/2023/10/AP-415-Public-Interest-Disclosure.pdf. 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 mail or email to Ryan Brennan, Director of Instruction (Human Resources) at rbrennan@sd84.bc.ca or mailed to Box 100, #2 Highway 28, Gold River, BC, V0P 1G0. This form can also be filled out and submitted electronically here - <https://forms.office.com/r/gyBEqmSEaT>

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 Director of Instruction (Human Resources) at rbrennan@sd84.bc.ca, Box 100, #2 Highway 28, Gold River, BC, V0P 1G0 or 250-283-7352.

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.

DISCLOSURE REPORT

1. Are you a current employee of the School District?

Yes No

2. Were you an employee of the School District 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	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 the School District at <https://sd84.bc.ca/about-sd84/about-sd84-policies/> and <https://sd84.bc.ca/about-sd84/administrative-procedures/>

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: (add additional pages to this document if necessary)

- 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 the School District?

- 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 action that you or others have taken to address, report or prevent the reported wrongdoing.

OTHER ACTION 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