

Policy No. & Title: **P214: WHISTLEBLOWER**

Effective: 2020-02-03

Next Review: 2025-02-03

Policy Sponsor: Chief Human Resources Officer

Approvals: 2019-03-28; 2020-02-03

1. PURPOSE

The purpose of this policy is:

- To confirm the right of every College community members' ability to come forward freely and without threat of reprisal where there is an honest belief that the College or its community members are engaged in serious misconduct, wrongdoing, illegal activities, violation of applicable federal, provincial or municipal laws, College policies, mismanagement of College and or subsidiaries funds, or a substantial threat to the environment, public health or safety;
- To communicate that every community member is expected to conduct themselves with integrity and in an ethical manner that avoids real or perceived conflicts of interest; and
- To establish procedures to ensure that reports of alleged breaches of this policy are dealt with in a fair and timely manner.

2. POLICY

The College is committed to fostering a community that maintains public confidence while fulfilling its vision, mission and legislated objectives. Ethical behaviour builds trust and inspires confidence in our College and helps to create successful partnerships with our communities, governments, other academic institutions and the public.

In the event of an alleged breach of this policy, the College responds promptly and strives to achieve a fair and timely resolution.

3. PRINCIPLES

The College takes all reports of wrongdoing seriously and will conduct an investigation that is appropriate to the circumstances.

All persons involved in allegations of wrongdoing have a right to procedural fairness and will be treated fairly and impartially regardless of their position within the College community or length of involvement with the College.

Reprisals or retaliation against any College community members for invoking this policy in good faith will not be tolerated.

4. SCOPE

This policy applies to all members of the College community and all College activities and functions relating to the College, on College premises as well as off-campus activities.

This policy is not intended to replace policies and procedures, which have been established to deal with complaints of discrimination, workplace violence or harassment. Similarly, this policy does not cover individual complaints or concerns associated with matters such as but not limited to academic appeals, accessibility, copyright, intellectual property, individual health or safety, management of employee performance, or provisions in any collective agreement. Such complaints will be referred and dealt with under the appropriate College policy and procedure, or through regulatory channels, where applicable, which may also provide protection against reprisals.

Where an external member of the Board of Governors is alleged to have contravened this policy, the allegation is investigated and processed under Board policy B-25.10.05: Governor's Code of Conduct.

Where an internal member of the Board of Governors is alleged to have contravened this policy, the allegation is investigated under this policy. Sanctions, if any, are dealt with under this policy in the case of an employee and under College policy A130 in the case of a student.

5. REFERENCES

Legislation:

[Occupational Health and Safety Act, R.S.O. 1990, c. O.1](#)

[Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. F.31](#)

Board Policy:

[B-25.10: Role of the Governor](#)

[B-25.10.05: Governor's Code of Conduct](#)

[D-30: Communication and Support to the Board](#)

College Policies:

[A130: Student Code of Conduct](#)

[C308: College Governance Accountability](#)

[P207: Employee Code of Conduct](#)

6. ATTACHMENTS

Standard A: RESPONSIBILITIES AND ACTIONS

Guideline A: REPORT PROCESSSS

Form 1: REPORT FORM

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Policy No. & Title: P214: WHISTLEBLOWER

Addendum: **Standard A: RESPONSIBILITIES AND ACTIONS**

Issued by: Chief Human Resources Officer

Effective: 2020-02-03

1. PURPOSE

The purpose of this document is to establish the framework for achieving the objectives of this policy.

2. DEFINITIONS

College Community: Includes employees, students, members of the Board of Governors, members of Boards or committees established by the College, volunteers, contractors, individuals providing service or research, individuals or groups who rent or use College facilities, visitors, applicants and guests.

Disclosure /Report: Any disclosure, which is not frivolous or vexatious, made by a member of the College community concerning an actual or perceived wrongdoing. A disclosure/report shall be made in writing and include as much detail as possible including dates, individuals/witnesses involved, and any supporting material/evidence that may be pertinent to the allegation.

Reprisal or Retaliation: Adverse action taken against an individual for invoking this policy or for participating or cooperating in an investigation under this policy or for associating with someone who has invoked this policy or participated in the policy's procedures.

Vexatious or Bad Faith Report: A report in which the whistleblower makes allegations knowing them to be false or submits a report for a malicious or vindictive purpose.

Whistleblower: One or more members of the College community making a disclosure of alleged wrongdoing.

Whistleblowing: The release or disclosure of information by a member of the College community that alleges wrongdoing.

Wrongdoing: Action(s) by a member of the College community, including but not limited to:

- a criminal offence;
- illegal or unethical behaviour;
- negligent, improper use or the gross mismanagement or misappropriation of any College or public funds and assets;
- academic or professional malpractice;
- fraudulent financial reporting, questionable accounting, or lack of appropriate internal controls;
- inadequate auditing processes;
- forgery or alteration of documents;
- unethical or fraudulent business practice; a serious, willful and flagrant non-compliance with/breach of federal, provincial or municipal statute or regulation or College policy/procedure;
- an act or omission by an individual that creates substantial and specific danger to the life, health, or safety of persons, or to the environment.

3. RESPONSIBILITIES**3.1. College Community Members**

College community members are responsible for ensuring they conduct themselves with integrity and in an ethical manner that avoids real or perceived conflicts of interest.

College community members are encouraged to come forward and submit a report where there is an honest belief that the College or its community members have committed a Wrongdoing. Such reports should, wherever possible, be made within 30 days of the Wrongdoing coming to the attention of the individual making the disclosure.

In addition, Community members are responsible for cooperating in the investigation or resolution of matters raised under this policy and required to maintain confidentiality regarding the matter or any other information they may be privy to regarding the matter, investigation and/or resolution.

3.2. Chief Human Resources Officer and Policy Coordinator (the Coordinator)

The Coordinator reports to the Chief Human Resources Officer and is responsible for administering this policy. The Coordinator will review all disclosure/reports and in conjunction with Chief Human Resources Officer will undertake a review of the complaint to complete an assessment of the nature and extent of the complaint; establish substance to the complaint; and determine appropriate investigative processes.

In the event that the Coordinator or a member of the Human Resources Department has a direct involvement with the subject matter subject to a disclosure/report made under this policy, in any capacity, the report will be directed to the Office of the President. In such cases, the President, jointly with the Vice-President of Finance and Administration, will undertake a review of the complaint to complete an assessment of the nature and extent of the complaint; establish substance to the complaint; and determine appropriate investigative processes.

A statistical summary of all complaints made under the policy will be provided on an annual basis to the Audit Committee of the Board of Governors.

3.3. Human Resources:

Facilitates the communication and posting of this policy.

Covers costs associated with administering this policy and procedure, and the cost of investigators as required.

4. MULTIPLE PROCEEDINGS

4.1. Where the subject matter of a disclosure/report is more appropriately dealt with under another College policy, the Coordinator may exercise discretion not to deal with the report under this policy and suggest that it be dealt with and decided under another appropriate policy. The Coordinator may assist the individual in contacting the Administrator for the appropriate policy.

4.2. Where criminal proceedings are initiated against any person involved in allegations of wrongdoing that falls within the scope of this policy, the College may conduct an independent investigation, where possible, into the allegations and makes its own determination in accordance with this policy.

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5. REPRISAL, RETALIATION OR VEXATIOUS OR BAD FAITH COMPLAINTS

Reprisal, retaliation or vexatious or bad faith reports are contrary to this policy and subject to sanction.

6. REDRESS AND SANCTION

Where a report or allegations have been substantiated or where it has been determined that the whistleblower filed a report that was vexatious or made in bad faith, appropriate corrective or disciplinary action is taken by the College. Such action may include but is not limited to requiring an apology, counselling, education or training, warning, suspension without pay, leave without pay, demotion, transfer, or termination of employment.

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Addendum: **Guideline A: REPORT PROCESS**

Issued by: Chief Human Resources Officer

Effective: 2020-02-03

1. PURPOSE

The purpose of this document is to establish a process for submitting a disclosure /report of alleged wrongdoing and the processing of same.

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3. TIME LIMITS

If more than a year has passed since the occurrence of the circumstances disclosed, an investigation will only occur if it reasonably appears to the College that there are potentially continuing effects of the alleged wrongdoing or the circumstances otherwise raise issues of overriding concern to the College.

4. ASSISTANCE FOR THE PARTIES

Individuals involved in this process at any stage, while not required, may seek assistance or support from, or be accompanied by another person of their choice (for example a trusted friend, a union representative, a member of the executive of the Student Administrative Council or the College Ombuds, as applicable).

When a support person will be attending any step of the process with a party, that party must advise the Coordinator in writing of the identity of the support person at least three business days in advance of any meeting. The role of the support person is to act as a resource and provide support and advice to the party. The support person is not permitted to speak or advocate on behalf of the party. In the event that a party chooses to retain legal counsel, or another paid advisor, as their support person, the party shall be solely responsible for the cost incurred.

Where appropriate, the Coordinator provides those involved and affected by the investigation with information regarding counselling services available through the College or through outside agencies.

5. PROCEDURAL FAIRNESS

All persons involved in allegations of wrongdoing have a right to procedural fairness and will be treated fairly and impartially regardless of their position within the College community or length of involvement with the College.

6. INTERIM MEASURES

In certain situations, such as where the safety of an individual or the community may be at risk, it may be necessary to take immediate action to address the circumstances. Such interim action may include involving the College's campus security or the police, relocating parties or placing them on a non-disciplinary suspension with pay pending the outcome of the investigation. The implementation of interim measures may mean that the certain aspects of this procedure, including confidentiality, are set aside at the discretion of the Coordinator.

7. CONFIDENTIALITY

All disclosures/reports made under this Policy and all investigations will be handled in a sensitive manner. Identifying information about any individuals involved will not be disclosed unless the disclosure is necessary for the purposes of investigating or is otherwise required by law.

All participants in the investigation process are required to maintain the confidentiality of the process and any information shared as part of the investigation to the extent permitted by law. Unwarranted breach of confidentiality is subject to sanction.

Subject to the provisions of the Freedom of Information and Protection of Privacy Act, records pertaining to a complaint are held in strict confidence in files maintained by the Coordinator.

8. THE PROCESS

8.1. Submitting the Disclosure/Report

- 8.1.1. If any member of the College community has reason to invoke this policy due to an honest belief that the College or another member of the College community is engaged in activities covered by this procedure they may file, in confidence a disclosure/report with the Policy Coordinator.
- 8.1.2. The disclosure/report will identify recognizable detail, specific incidents, acts or decisions thought to support the serious misconduct, wrongdoing, or illegal activity; the circumstances around the serious misconduct, wrongdoing, or illegal activities such as relevant time (s), places and witnesses; the individual (s), community member(s) involved in the serious misconduct, wrongdoing or illegal activities.
- 8.1.3. If the whistleblower discloses their identity and contact information, but wishes to remain anonymous throughout the process, this should be clearly communicated. The Coordinator and/or investigator will attempt to protect the whistleblower's identity as much as possible. However, in the interest of fairness and compliance with legal process may require the whistleblower's identity be provided to one or more persons. In the event of the need to disclose, every effort will be made to notify the whistleblower prior to disclosure.
- 8.1.4. Disclosures/reports that are submitted anonymously will only be acted upon if the evidence collected during preliminary evaluation indicates the disclosure can properly be

investigated and it is in the public interest to do so.

8.2. Internal Review

- 8.2.1. The Coordinator will review all disclosures/reports and in conjunction with the Chief Human Resources Officer will undertake a review of the complaint to complete an assessment of the nature and extent of the complaint; establish substance to the complaint; and determine appropriate investigative processes.
- 8.2.2. Where the disclosure/report of matters that are outside the scope of this policy, the Coordinator will refer the matter to the appropriate College policy, Collective Agreement or Terms of Employment.
- 8.2.3. Where the disclosure/report of a matter is substantially similar to another disclosure/report already being investigated, it may be dismissed where the other proceeding will appropriately deal with the subject of the disclosure/report, or the investigation postponed until resolution of the similar matter.
- 8.2.4. Depending on the nature of the disclosure/report, the matter may be referred to appropriate College staff, an internal investigator, an independent external investigator, special committee, external auditor, legal advisor or other external agency commission, and or legal process for resolution.
- 8.2.5. The whistleblower(s) has the right to withdraw a disclosure/report at any stage in the process by contacting the Coordinator. However, depending on the circumstances, in order to comply with its legal obligations, the College may continue to act on the matter.

8.3. Investigation

- 8.3.1. The investigator will contact the whistleblower following a preliminary review/investigation to advise if the investigation will proceed and to seek clarification as required.
- 8.3.2. The investigator will be granted access to College personnel as appropriate, all relevant College records, property, electronic files or systems and other forms of documentation deemed necessary to conduct as thorough an investigation as appropriate to the circumstances.

8.4. Investigation Report, Summary of Findings and Disposition

- 8.4.1. The investigator will prepare a written report of the findings of the investigation for the College.
- 8.4.2. Where a finding of Wrongdoing is made, the investigator's report shall:
 - Provide recommendations to address the wrongdoing using appropriate means, including but not limited to recommendations for civil or criminal proceedings, etc.;
 - Recommend appropriate preventative measures to be implemented to prevent future recurrence;
 - Refer disciplinary matters to the Chief Human Resources Officer, the appropriate Vice-President or President; and

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- 8.4.3. The findings of any investigation shall be communicated to the Coordinator, Chief Human Resources Officer, Vice-President or President as applicable. Disclosure of the findings will be subject to the limitations of collective agreements, certain legislation and regulation including but not limited to the Freedom of Information, Protection and Privacy Act.
 - 8.4.4. If the investigation findings determines no wrongdoing has been committed, the investigator will provide a report of same to the Coordinator, Chief Human Resources Officer, Vice-President or President as applicable.
 - 8.4.5. The person making the original disclosure/report will be contacted (if available) and informed that the investigation has been completed.
 - 8.4.6. All information gathered during the process is confidential and will be maintained in accordance with relevant College protocols and privacy legislation.
- 8.5. No Retaliation
- 8.5.1. Reprisals or retaliation against any College community members for invoking this policy in good faith will not be tolerated.
 - 8.5.2. The whistleblower may not be exempt from sanctions or remedies for any participation in the wrongdoing disclosed, however consideration will be given to the circumstances giving rise to the wrongdoing.
 - 8.5.3. The whistleblower or any party providing information to the investigation of wrongdoing that is subject to any retaliation or threat of retaliation will report such acts to the Coordinator or in the event that the Coordinator, or Human Resources is involved to the Office of the President.
 - 8.5.4. Any investigation of retaliation will be conducted in the same manner and guided by the same principles as any other investigation under this procedure.
 - 8.5.5. Any member of the College community found responsible for retaliation will be subject to appropriate disciplinary action.

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Addendum: **Form 1: REPORT FORM**

Issued by: Chief Human Resources Officer

Effective: 2020-02-03

Please provide the following information regarding your honest belief that the College or its community members are engaged in serious misconduct, wrongdoing, illegal activities, and violation of applicable federal, provincial or municipal laws, College policies, mismanagement of College and or subsidiaries funds, or a substantial threat to the environment, public health or safety.

Your disclosure/report should identify recognizable detail, specific incidents, acts or decisions thought to support the serious misconduct, wrongdoing, or illegal activity; the circumstances around the serious misconduct, wrongdoing, or illegal activities such as relevant time (s), places and witnesses; and the individual(s), community member(s) involved in the serious misconduct, wrongdoing or illegal activities. Please provide as much detail as possible and attach to this form.

- a) Describe the wrongdoing activity:

- b) Provide detail, specific incidents, acts or decisions thought to constitute wrongdoing:

- c) The circumstances regarding the wrongdoing including but not limited to relevant times and places:

- d) The individuals you believe are involved in the wrongdoing:

Disclosures/reports that are submitted anonymously will only be acted upon if the evidence collected during preliminary evaluation indicates the disclosure can properly be investigated and it is in the public interest to do so.

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If the whistleblower discloses their identity and contact information, but wishes to remain anonymous throughout the process, this should be clearly communicated. The coordinator and/or investigator will attempt to protect the whistleblower's identity as much as possible. However, in the interest of fairness and compliance with legal process may require the whistleblower's identity be provided to one or more persons. In the event of the need to disclose, every effort will be made to notify the whistleblower prior to disclosure.

Name (optional)

Contact Information

- I have disclosed my name but wish to remain anonymous throughout the process
- I can be contacted for clarification of any of the information provided by
 - The Coordinator
 - The Investigator