
Protected Disclosure (Whistleblower) Procedure

Policy Sponsor:	Vice President, Finance & Administration
Name of Parent Policy:	Protected Disclosure (Whistleblower) Policy
Policy Contact:	Director, Strategic Initiatives
Procedure Contact:	Director, Strategic Initiatives
Effective Date of Procedures:	January 22, 2015
Review Date:	To be reviewed biennially

Purpose

To outline Disclosure, investigative and reporting procedures with respect to Wrongdoing at Athabasca University (the University), in line with Alberta's *Public Interest Disclosure (Whistleblower Protection) Act - 2012*.

Definitions

Chief Internal Auditor	An employee who directs the delivery of internal audit services for Athabasca University under the terms of the Internal Audit Charter.
Chief Officer	As prescribed in Alberta's Public Interest Disclosure (Whistleblower Protection) Act, the President of Athabasca University is designated to be the Chief Officer.
Commissioner	The Public Interest Commissioner appointed under section 38 of Alberta's Public Interest Disclosure (Whistleblower Protection) Act.
Designated Officer	A senior official, designated by the Chief Officer to manage and investigate a Protected Disclosure, as prescribed in Alberta's Public Interest Disclosure (Whistleblower Protection) Act.
Disclosure	A report which is made in relation to a Wrongdoing.



Employee	An individual who performs services for Athabasca University under a contract of services, as defined by the Canada Revenue Agency (CRA) and the Income Tax Act. Departing Employees or Retiring Employees are included in the definition of Employee for the purposes of this policy.
Ethical Conduct	Conduct that is fair, free from deception and impropriety and consistent with accepted standards as identified in Athabasca University's policies and procedures.
Executive Officers	Includes the University President and Vice-Presidents.
Fraud	<p>A deliberate and/or unlawful deception or misrepresentation or concealment of facts, practiced to secure advantage, benefit or gain and/or to cause loss to another.</p> <p>Fraud includes, but is not limited to:</p> <ul style="list-style-type: none">• misappropriation, misapplication, destruction, removal or concealment of Athabasca University property;• alteration or falsification of paper or electronic documents (cheques, reference letters, grant applications, time sheets, requisitions, budgets etc.) including the inappropriate destruction of paper or electronic documents;• authorizing or receiving payments for goods not delivered or services not performed;• altering or deliberately reporting incorrect financial or personal information for either a personal advantage or for a benefit to Athabasca University;• unauthorized use of Athabasca University property and resources for personal advantage or gain;• any claim for reimbursement of unincurred or ineligible expenses or unearned payment of fees or wages;• bribery, kickbacks or rebates;• identity theft; and• misrepresentation by an Employee of professional or academic credentials or employment status with Athabasca University.



Good Faith	Honestly intended action based on reasonable belief and not malicious, frivolous or vexatious in nature.
Gross Mismanagement	An action or inaction that shows a reckless or willful disregard for the efficient management of Athabasca University resources.
Interference	Direct or indirect action or use of authority to obstruct a person's right to make a Protected Disclosure.
Partners	Includes, but is not limited to: <ol style="list-style-type: none">1. suppliers of goods and services,2. other educational institutions and affiliates,3. industries,4. foundations,5. government bodies.
Procedural Fairness and Natural Justice	The right of a person to be heard in a fair and unbiased manner prior to a decision being made that may have a negative impact on their rights or interests. This includes being informed of the facts alleged and given a full opportunity to respond. However this does not include being informed of the identity of person(s) who have made Protected Disclosures.
Protected Disclosure	A report of a Wrongdoing, made in Good Faith, in accordance with this Policy, which is to be addressed as outlined in this Policy and its related Procedure.
Representatives of the University	Executive officers, managers, supervisors, faculty, staff, post-doctoral fellows, professors emeriti, visiting academics, students, alumni, volunteers, contractors when specified in the terms of the contract, members of the Board of Governors, partners and others, when acting on behalf of the University.
Reprisal	To take or direct, or to counsel or direct another person to take or direct, any of the following measures against anyone who has, in Good Faith, sought advice about making a Disclosure, made a Protected Disclosure, co-operated in an investigation under this Policy, declined to participate in a Wrongdoing or done anything in accordance with this Policy: <ol style="list-style-type: none">1. any measure such as:<ol style="list-style-type: none">a. dismissal,b. disciplinary action or reprimand,c. demotion or withholding of due promotion,d. discontinuation or elimination of a job,



- e. change of job location,
- f. reduction in wages,
- g. changes in hours worked,
- h. termination of employment,
- i. suspension,
- j. imposition of any penalty,
- k. harassment, or
- l. discrimination;

2. any measures, other than those mentioned in clause (1), that adversely affects the person's employment or working conditions or learning conditions; or
3. a threat to take any measures mentioned in clause (1) or (2).

Senior Officers

Any Executive Officer, Associate Vice-President, Director, Dean, Centre Chair, Registrar, or the University Secretary.

Service Provider

An independent external organization contracted by Athabasca University to provide a confidential process that enables people to make Protected Disclosures.

Whistleblower

A person making a Protected Disclosure.

Wrongdoing

A known or suspected act which has occurred, suspected to have occurred or is anticipated to occur, which includes, but is not limited to:

1. a serious contravention of Athabasca University policies or regulations;
2. acts which are in a contravention of relevant local, provincial or federal acts or regulations;
3. acts of fraud or financial irregularity;
4. a misuse of funds, assets or resources;
5. a gross mismanagement of Athabasca University funds or assets;
6. an act or omission that creates a substantial or specific danger to the life, health or safety of persons or to the environment;
7. a serious breach of ethics or code of conduct;
8. an interference;
9. a reprisal;
10. a serious misrepresentation;
11. an act that is not ethical; or
12. directing or counselling a person to commit a Wrongdoing.



Procedure

The Chief Internal Auditor is designated by the President of the University to be the Designated Officer.

Disclosure

Representatives of the University, who believe in Good Faith that a Wrongdoing has been committed or is about to be committed are expected to report the Wrongdoing.

Protected Disclosures may be made to the following:

- 1) To Confidence Line, the authorized external Service Provider, available by telephone at 1-800-661-9675 or online at <http://www.athabasca-university.confidenceline.net> who will:
 - a) report directly to the Designated Officer and the President (or his or her designate) on any Disclosure which does not relate to conduct of the Executive Officers, the President or members of the Board of Governors;
 - b) report directly to the Chair of the Audit Committee (or his or her designate) and the President (or his or her designate) on any Disclosure relating to conduct of the Executive Officers or members of the Board of Governors; and
 - c) communicate issues reported only to the authorized contacts, within the University, as stated in the contract with Confidence Line for investigation.
- 2) Directly to the Chief Internal Auditor, Viviana Botticelli by phone 780-289-3009 or by email at vbotticelli@athabascau.ca
- 3) Directly to the Commissioner at <https://yourvoiceprotected.ca/for-employees/seeking-advice> if:
 - the individual making the Disclosure is an employee of the University;
 - the employee has made a Disclosure in accordance with these procedures to the Designated Officer and an investigation in respect of the Protected Disclosure has not been completed in accordance with the procedures;
 - the employee has made a Protected Disclosure in accordance with these procedures and the matter has not been resolved within the time periods established under these Procedures;



- the employee has made a Protected Disclosure in accordance with these Procedures, the investigation under these Procedures has been completed, a final decision has been issued in respect of the Protected Disclosure and the employee is dissatisfied with the decision;
- the subject matter of the Protected Disclosure involves the President, the Chair of the Audit Committee or the Designated Officer;
- the employee reasonably believes that a matter constitutes an imminent risk of a substantial and specific danger to the life, health or safety of individuals, or to the environment, such that there is insufficient time to make a Protected Disclosure under section 9 of the Act;
- the employee has made a Protected Disclosure in accordance with these procedures and is unable to complete the procedures because a Reprisal has been taken or directed against the employee; or
- the employee reasonably believes that a Reprisal is likely to be taken or directed against the employee if the Protected Disclosure is made in accordance with these procedures.

Disclosures may also be made as per the process outlined in related policies and procedures. If the Disclosure is made in a manner different from that stated in (a), (b) or (c), it is deemed not to be a Protected Disclosure and is considered as being made outside of the scope of this Policy. In such cases, the Disclosure will be addressed as outlined in the related policy and procedures.

All Protected Disclosures, as prescribed under the *Public Interest Disclosure (Whistleblower Protection) Act* should:

- be made in writing (the Commissioner may request that Disclosures made to him or her be made in writing);
- include a description of the Wrongdoing;
- include the name of the person(s) alleged to have committed the Wrongdoing, or about to commit a Wrongdoing; and
- include the date, or approximate time period, of the Wrongdoing.

Any person making any type of Disclosure is encouraged to identify themselves, as anonymous Disclosures may limit the ability of an investigator to determine the exact nature of the alleged



Wrongdoing. Anonymous Protected Disclosures will be investigated at the discretion of the Designated Officer.

Receiving a Protected Disclosure:

Once a Protected Disclosure has been made, it will be acknowledged in writing within five business days, in one of the following ways:

- if made through Confidence Line, the Service Provider will provide written confirmation to the person making the Protected Disclosure that the disclosure has been received.
- if made to the Designated Officer, he or she will provide written confirmation to the person making the Protected Disclosure that the disclosure has been received.
- if made to the Commissioner, he or she will respond and address the Protected Disclosure as prescribed in the *Public Interest Disclosure (Whistleblower) Protection Act*.

If a Protected Disclosure has been made through Confidence Line, the service provider will facilitate all communications with the person making the Disclosure until the Protected Disclosure is resolved.

If the matter is determined to constitute an imminent risk of substantial or specific danger to the life, health or safety of individuals, or to the environment, the Designated Officer will take steps to immediately address the matter and will report the matter to the Commissioner as soon as reasonably practical. The President and Chair of the Audit Committee will also be informed.

If the matter is outside the University's scope or jurisdiction, the matter will be forwarded to the appropriate entity or authority. This includes matters pertaining to federal, provincial or local acts or regulations. This decision shall be documented by the Designated Officer and the President will be informed of this decision.

Investigations

The President authorizes the Designated Officer to carry out or cause to be carried out a preliminary review of the facts presented to determine whether there are reasonable and probable grounds to warrant an investigation.

The Designated Officer may request any additional information that he or she may reasonably require in order to investigate the matters set out in the Protected Disclosure.

The Designated Officer may consult with the President, as well as other appropriate internal and external resources, regarding the management and investigation of a Protected Disclosure.



The Designated Officer may request advice from the Commissioner with respect to the management and investigation of a Protected Disclosure.

If more than one Protected Disclosure of Wrongdoing or complaint of Reprisal is received in respect of the same matter, a single investigation may be conducted rather than separate investigations with respect to each.

The Designated Officer will determine whether the Protected Disclosure merits investigation within ten business days of the person making the Protected Disclosure having filed the Protected Disclosure. The decision will be relayed, in writing, to the individual who made the Protected Disclosure.

In determining whether to initiate or continue with an investigation in relation to a Protected Disclosure, the Designated Officer will consider whether:

- a) the Protected Disclosure is frivolous, vexatious, has not been made in good faith or does not deal with a Wrongdoing;
- b) the Protected Disclosure does not provide adequate particulars about the Wrongdoing to permit the conduct of a fair and effective investigation;
- c) the allegations, if true, constitute a Wrongdoing as defined by the Policy;
- d) the subject matter of the Protected Disclosure could more appropriately be dealt with, initially or completely, under another Athabasca University Policy, collective agreement or employment contract;
- e) the subject matter of the Protected Disclosure is within the University's authority to investigate;
- f) the subject matter of the Protected Disclosure is being investigated by the Commissioner; and
- g) there is another valid reason for not proceeding with an investigation.

When exercising his or her discretion not to investigate or not to continue with an investigation, particularly when the person making the Protected Disclosure has declined to provide his or her name, the Designated Officer may take into account the following factors:

- a) the seriousness of the issues raised,
- b) the likelihood of confirming the allegation of Wrongdoing from alternative credible sources, and



c) the credibility or reliability of an anonymous person making the Protected Disclosure.

If a decision has been made not to investigate or to discontinue an investigation, the person making the Protected Disclosure (provided he or she has provided his or her name and contact information) will be advised by the Designated Officer of the decision and the reasons for it.

When an allegation is dismissed as being frivolous, vexatious, or not made in Good Faith, the person making the Protected Disclosure will be given an opportunity to further substantiate the allegation of Wrongdoing.

If, upon initial review, it is determined that there will be an investigation, the following will apply to all elements of the investigation:

- Person(s) against whom the complaint has been made have legal rights that must be respected.
- Investigations will be in accordance with the principles of Procedural Fairness and Natural Justice and in compliance with applicable policies and collective agreements.
- Investigations will be conducted as expeditiously as possible.
- Any discipline arising from an investigation shall be undertaken in accordance with the relevant collective agreements;
- All person(s) are required to be truthful and cooperate fully with the investigation;
- All person(s) involved in any way with the investigation shall keep the details and results of the investigation confidential.
- All person(s) involved in any way with an investigation are protected against Reprisal. Any allegations or concerns regarding Reprisal should be reported as soon as possible.

Investigations will be completed within one hundred and ten (110) business days of receipt of the Protected Disclosure of Wrongdoing or complaint of Reprisal. The President can grant an extension of up to thirty (30) business days for investigations, if required.

If specialized expertise is retained by the Designated Officer to assist in the investigation (e.g., lawyers, specialized investigators, forensic auditors), care will be taken to handle all correspondence to or from any expert, including billings for these services, with due regard to confidentiality requirements and protection of identity.

If, in the course of an investigation, the Designated Officer has reason to believe that another Wrongdoing has been committed or may be committed, he or she may choose to investigate the matter further, utilizing the relevant policy and procedure.



Disclosures which are determined to be outside the scope of this policy will be resolved with reference to the University policies or guidelines which appropriately address them.

Confidentiality

To the fullest extent possible, the Designated Officer will ensure the confidentiality of the information contained in the Protected Disclosure and the investigations conducted under this Policy. This will include protecting the identity of person(s) making the Protected Disclosure, the person(s) who are the subject of allegations of Wrongdoing, as well as that of any witnesses.

All parties and information will be treated with sensitivity and neither the details of Protected Disclosure nor the results of investigations will be revealed to or discussed with anyone other than those who have a legitimate need to know. Concerns for individual rights and the potential for impeding an objective investigation require that premature public information release be avoided.

The mechanisms for and conditions under which information is released will be determined by the Chair of the Audit Committee (or his or her designate) based on recommendations from the President (or his or her designate), or the Designated Officer.

Information will be shared only if it will fulfill one or more of the following outcomes:

- (a) establishing interim measures to address the Wrongdoing, if needed;
- (b) initiating, investigating and resolving the Wrongdoing;
- (c) conforming to the principles of Procedural Fairness and Natural Justice;
- (d) satisfying legal requirements; and
- (e) ensuring the health and safety of employees in the workplace.

Outcomes, Filing and Reporting

Upon completion of the investigation, the Designated Officer will prepare a summary of the findings, which will be validated as required to meet the principles of Procedural Fairness and Natural Justice. This reporting process will include the opportunity for the person making the Protected Disclosure and the person(s) alleged to have committed a Wrongdoing to discuss the investigator's finding and provide clarification if needed.

Following the validation process, the Designated Officer will submit a final report to the President that sets out:

- the Designated Officer's findings and reasons for those findings, and



- any recommendations the Designated Officer considers appropriate respecting the Protected Disclosure and the Wrongdoing.

A summary of the final report will be made available to the original person(s) making the Protected Disclosure. This will include a description of the Wrongdoing and any recommendations made or corrective measures to be taken in relation to the Wrongdoing or the reasons why no corrective measure was taken. It will not include any information in relation to any disciplinary action taken in relation to the Protected Disclosure.

The person(s) against whom allegations have been made will be notified in writing of the results of the investigation.

Further dissemination of the final report, the summary report or other information in relation to the results of the investigation will be determined by the Chair of the Audit Committee (or his or her designate) based on recommendations from the President (or his or her designate), or the Designated Officer.

If a Wrongdoing is confirmed, the appropriate remedial actions, discipline and follow-up of corrective measures will be undertaken by the University.

Should the report point to a suspected offence under a federal, provincial or local act or regulation, it will be reported by the Designated Officer to the President, who in turn, will assess allegation and determine the appropriate reporting to authorities.

On a regular basis, the Designated Officer will provide the Chair of the Audit Committee and the President with a summary report of each Protected Disclosure.

On an annual basis the Chief Officer must prepare an annual report which includes:

- i. the number of Protected Disclosures reported;
- ii. the number of Protected Disclosure investigations undertaken;
- iii. the number of Protected Disclosures not investigated;
- iv. the results of the investigations, including descriptions of the Wrongdoings and any recommendations made or corrective measures taken in relation to the Wrongdoings or, if no corrective measures were taken, the reasons that no corrective measures were taken; and
- v. any outstanding actions required of the University as a result of those investigations.



The annual report is to be included in the University's annual report and the Chief Officer's annual report to the Commissioner.

Protection from Reprisal

Any person who experiences or believes that he or she has been subjected to Reprisal as a result of making a Protected Disclosure or participating in an investigation should document the details and immediately inform the Designated Officer.

The Designated Officer will ensure that the allegation of Reprisal is investigated.

The *Public Interest Disclosure (Whistleblower Protection) Act*, also allows for a complaint of Reprisal to be made to the Commissioner, in the prescribed form.

Any person engaging in acts of Reprisal shall be subject to disciplinary action, up to and including termination.

Applicable Legislation and Regulations

[Post-Secondary Learning Act](#)

[Alberta Public Interest Disclosure \(Whistleblower Protection\) Act](#)

[Freedom of Information and Protection of Privacy Act](#)

[Athabasca University Regulation](#)

[Conflicts of Interest Act](#)

Related References, Policies, Procedures and Forms

[Protected Disclosure \(Whistleblower\) Policy](#)

[Code of Conduct and Conflict of Interest Guidelines for the Board of Governors](#)

[Code of Conduct for Members of the University Community](#)

[Conflict of Interest in Research Policy](#)

[Fraud and Financial Irregularity Policy](#)

[Protection of Privacy Policy](#)

[Non-Academic Misconduct Policy](#)

[Research Integrity Policy](#)

[Security of Information and Assets Policy and related Procedures](#)

[Student Academic Misconduct Policy](#)

[Harassment, Violence and Sexual Violence Policy](#)

[AUFA Terms and Conditions](#)

[AUPE Collective Agreement](#)

[CUPE Collective Agreement](#)



History

The Governors of Athabasca University, January 22, 2015, Motion # 194-11 (associated policy revised)

Athabasca University Governing Council, December 13, 2007 Motion # 160-4 (associated policy approved)