

 University College of the North <b>Policies &amp; Procedures Manual</b>	# Pages: Page 1 of 4	Number: HR-01-06
	Approved by: President's Council	
Section: HUMAN RESOURCES – GENERAL	Effective Date: January 17, 2022	
Title: PUBLIC INTEREST DISCLOSURE (WHISTLEBLOWER) PROTECTION	Replaces: HR-01-06 (September 20, 2017)	

## POLICY STATEMENT

*The Public Interest Disclosure (Whistleblower Protection) Act C.C.S.M. c.P217* (<http://web2.gov.mb.ca/laws/statutes/ccsm/p217e.php>), designates University College of the North (UCN) as a “government body”. This policy provides procedures for the disclosure and investigation of significant and serious wrongdoings in public service that are potentially unlawful, dangerous to the public, or injurious to the public interest.

## PURPOSE

This policy provides guidance for dealing with disclosures of wrongdoing. An employee or student of UCN who becomes aware of wrongdoing as defined by the *Public Interest Disclosure (Whistleblower Protection) Act* (hereby referred to as the Act) has the obligation to make disclosure of such information. An employee, student or third-party observer who makes a good faith disclosure of a situation they reasonably believe shows wrongdoing has been or is about to be committed is provided protection from reprisal under the Act and this policy.

## DEFINITIONS

**Wrongdoing** – The Act (section 3), defines wrongdoing in or relating to the public service as:

- a) an act or omission constituting an offence under an Act of the Legislature or the Parliament of Canada, or a regulation made under an Act;
- b) an act or omission that creates a substantial and specific danger to the life, health or safety of a UCN employee or student, or the environment, other than a danger that is inherent in the performance of the duties or functions of an employee;
- c) gross mismanagement, including of public funds or a public asset;
- d) knowingly directing or counselling a person to commit a wrongdoing described in clauses (a) to (c).

**Public Interest Disclosure Officer** – for the purposes of this Act, UCN has designated the Chief Administrative Officer as the Public Interest Disclosure Officer, to receive and deal with disclosures made by an employee or student.

## SCOPE

While this policy deals with disclosures of wrongdoing made by an employee or student, the same principles and procedures apply to a disclosure made by a third-party observer who may make a disclosure to the Office of the Manitoba Ombudsman.

## **PROCEDURES**

### **I. Disclosures of Wrongdoing**

1. UCN will not allow or condone any practice, activity, decision or organizational circumstance that is either imprudent, illegal, in violation of commonly accepted business and professional ethics, not in keeping with UCN's statement of values, or in contravention of applicable laws, policies or directives.
2. The Act outlines restrictions for the disclosure of protected, personal and confidential information:
  - a. The Act does not authorize the disclosure of information protected by the Freedom of Information and Protection of Privacy Act (FIPPA);
  - b. Appropriate measures must be taken to ensure personal and confidential information is protected, and the disclosure of information is limited to only that which is required to make the disclosure.
3. An employee or student who is considering making a disclosure may request advice from the Public Interest Disclosure Officer.
4. A disclosure of wrongdoing must be made in writing and include the following information:
  - a. the name of a UCN employee or student making the disclosure;
  - b. a description of the wrongdoing;
  - c. the name of the UCN employee or student alleged to have committed or is about to commit the wrongdoing;
  - d. the date of the wrongdoing; and
  - e. whether the wrongdoing has already been disclosed and the response received.
5. The written disclosure can be made to:
  - a. in the case of an employee:
    - i the employee's supervisor;
    - ii the Public Interest Disclosure Officer; or
    - iii the Office of the Manitoba Ombudsman.
  - b. in the case of a student:
    - i the Dean of Students or the Registrar;
    - ii the Public Interest Disclosure Officer; or
    - iii the Office of the Manitoba Ombudsman
  - c. in the case of any other party:
    - i the Office of the Manitoba Ombudsman.

### **II. Receipt of Disclosures**

1. Upon receipt, each disclosure will be marked to show the date of receipt. Each disclosure shall be maintained in a separate file.
2. Disclosures and related correspondence will be kept and handled in paper form only. Information received by electronic mail be printed and the electronic mail deleted. The electronic mail must not be forwarded or responded to by using the "reply" option.
3. Disclosure files will be treated as strictly confidential, maintained in a secure manner and location, and protected from unauthorized access. Extensive care will be taken at all times to protect the identity of the disclosing UCN employee or student, any witnesses, and the alleged wrongdoer.
4. All written information obtained as a result of the receipt of the disclosure, review of the disclosure, or the investigation of the alleged wrongdoing must be included in the disclosure file.

All pertinent information obtained verbally must be documented in writing in the disclosure file and dated and signed by the UCN employee or student receiving the information.

5. The supervisor, Dean of Students or the Registrar who receives a disclosure from a UCN employee or student must arrange to have a private discussion with the UCN employee or student within ten working days of receiving the disclosure. Accordingly, they will:
  - a. advise the UCN employee or student that all information regarding their identity as a discloser will be protected to the fullest extent possible.
  - b. advise the UCN employee or student that they have a responsibility to protect information related to the disclosure and must protect the identity of each person involved in the discussion, including the individual making the disclosure, witnesses and the alleged wrongdoer.
  - c. promptly notify the Public Interest Disclosure Officer and transfer the disclosure in a confidential manner for further review and handling.
6. The Public Interest Disclosure Officer who receives a disclosure from a UCN employee or student or any third-party must arrange to have a private discussion with the disclosing employee within ten working days of receiving the disclosure. Accordingly, they will:
  - a. advise the disclosing UCN employee or student or any third party, that they have a responsibility to protect information related to the disclosure and must protect the identity of each person involved in the discussion, including the individual making the disclosure, witnesses and the alleged wrongdoer.
7. The Public Interest Disclosure Officer will review the disclosure to determine if the disclosure meets the following criteria:
  - a. The disclosure was made in good faith, and is not frivolous;
  - b. The disclosure falls within the categories of wrongdoing covered by the Act;
  - c. The UCN employee or student has a reasonable belief that the information could show that a wrongdoing has been or is about to be committed.
8. A disclosure shall be reviewed promptly to determine if the matter disclosed represents a wrongdoing as defined in the Act and to determine the appropriate action to be taken. Every effort will be made to complete the review within 30 working days from the initial receipt of disclosure.

### **III. Investigations**

1. Investigations will be managed by the Public Interest Disclosure Officer, with appropriate assistance as required. This responsibility cannot be delegated.
2. Investigations will be conducted promptly and in a confidential manner, with due regard for the protection of the identity of all individuals involved. The investigation will adhere to all principles of procedural fairness and natural justice.
  - a. Employees and students are expected to cooperate during the investigation process, and provide the Public Interest Disclosure Officer with relevant information related to the investigation.
  - b. No person involved in the investigation process shall knowingly, falsify, conceal, or destroy information, that is likely to be relevant to the investigation.
3. The Public Interest Disclosure Officer will document the outcome of the investigation in the disclosure file. If the investigation results in a finding of wrongdoing, the disclosure file will include any recommendations of corrective actions to be taken. If the investigation results in a finding that no wrongdoing has occurred, the file will include reasons why no corrective action was recommended or taken.

4. A UCN employee or student who is found to have committed wrongdoing is subject to appropriate disciplinary action. This may include termination of employment or studies, in addition to or apart from any penalty provided by law and in accordance with the Act.
5. A UCN employee or student who is found to have made false or misleading statements in making a disclosure, or during an investigation, is subject to appropriate disciplinary action.
6. The Public Interest Disclosure Officer will inform the disclosing UCN employee or student, the alleged wrongdoer and the President and Vice Chancellor of the outcome of an investigation within 60 working days. The Public Interest Disclosure Officer must include a note in the disclosure file, signed and dated, confirming this communication has occurred.
7. If the Public Interest Disclosure Officer finds an investigation is not warranted, the reason for this determination and any action that has been taken is to be documented in writing in the disclosure file. The disclosing UCN employee or student and the President and Vice Chancellor will be advised promptly that the review of the disclosure has been concluded.
8. If, after submitting a disclosure, the disclosing employee or student wishes to withdraw the disclosure, the Public Interest Disclosure Officer shall request that the disclosing employee or student provide written confirmation of the withdrawal. Upon receipt of the withdrawal notice, the Public Interest Disclosure Officer will close the disclosure file.
9. In the event that disclosure is withdrawn, the Public Interest Disclosure Officer shall determine whether any action regarding the subject matter of the disclosure needs to be taken. This action is independent of the disclosure process, and is to be determined on a case-by-case basis.

#### **IV. Protection from Reprisal**

1. There will be no reprisal against a UCN employee or student or any third-party if the UCN employee or student or third party has, in good faith:
  - a. sought advice about making a disclosure from their supervisor, the Public Interest Disclosure Officer, or the Manitoba Ombudsman;
  - b. made a disclosure; or
  - c. co-operated in an investigation under the Act.
2. If a UCN employee or student or third-party believes that there has been a reprisal due to their disclosure of wrongdoing, they may seek redress by filing a written complaint with the Office of the Manitoba Ombudsman.

#### **V. Reporting**

1. Upon completion of the investigation, the Public Interest Disclosure Officer must prepare an Investigation Report outlining their findings and any recommendations or corrective actions taken in relation to the wrongdoing or reasons why no corrective action was taken. Accordingly, the Public Interest Disclosure Office shall:
  - a. provide a copy of the report to the President and Vice-Chancellor;
  - b. inform the employee or student who made the disclosure the results of the investigation;
2. A report on any disclosures of wrongdoings shall be made available in UCN's Annual Report. The report shall include:
  - a. the number of disclosures received and the number acted on or not acted on;
  - b. the number of investigations commenced as a result of a disclosure;
  - c. in a case of an investigation that results in a finding of wrongdoing, a description of the wrongdoing and any recommendations or corrective actions taken in relation to the wrongdoing or the reasons why no corrective action was taken.