

# PUBLIC INTEREST DISCLOSURE



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<b>POLICY NUMBER</b>	BRD 29-0
<b>APPROVAL DATE</b>	October 4, 2024
<b>AUTHORITY</b>	Board of Governors
<b>CATEGORY</b>	Board
<b>PRIMARY CONTACTS</b>	AVP, People and Culture; Director, Internal Audit
<b>ADMINISTRATIVE CONTACT</b>	President

## POLICY

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### I. Background

1. The *Public Interest Disclosure Act (PIDA)* protects Employees who in good faith make, or request advice about making, a Disclosure of Wrongdoing or a complaint about Reprisal. PIDA also protects Employees and Contractors who in good faith cooperate with an Investigation. The University is committed to its obligations under PIDA and adopts this Policy and Regulations to meet them.

### II. Policy

1. The University is committed to maintaining the highest standards of ethical conduct and promoting a culture of honest, transparent and accountable behaviour.
2. The protections offered by this Policy are in keeping with and support the principles set out in the Statement on Academic Freedom.
3. Employees are encouraged to report Wrongdoing.
4. The University will conduct Investigations in accordance with the principles of procedural fairness and natural justice, and applicable legislation, policy and collective and employment agreements.
5. Everyone involved in a Disclosure and any subsequent Investigation must treat all related information as confidential.
6. For the Policy to function as intended, everyone involved in a request for advice, Disclosure, complaint about Reprisal or Investigation must protect confidentiality and privacy. Accordingly, the University is committed to maintaining the appropriate level of confidentiality and protecting the privacy of Disclosers, Respondents and those who cooperate in Investigations in a manner that is consistent with its obligations under PIDA and the *Freedom of Information and Protection of Privacy Act (FIPPA)*. All reporting under this Policy will be in compliance with PIDA and FIPPA.

7. Employees may not take, carry out or participate in any Reprisal, or counsel or direct a Reprisal, against: any Employee who, in good faith, requests advice, makes a Disclosure, complains about a Reprisal, or cooperates in an Investigation; or any Contractor who, in good faith, cooperates in an Investigation, in accordance with this Policy.
8. An Employee who believes that they have been the subject of a Reprisal may make a complaint to the BC Ombudsperson, who may investigate and make recommendations to address a Reprisal in accordance with PIDA.
9. PIDA and this Policy's protection against Reprisals does not apply to protect an Employee or Contractor from:
  - a) the consequences of their own breach of this Policy, including but not limited to a breach of confidentiality and/or privacy; or
  - b) the management or termination of their employment or contractual relationship, disciplinary action, or administrative actions unrelated to the exercise of their rights under PIDA and this Policy.
10. This Policy does not limit an Employee's rights or remedies that may be available under a collective agreement, contract or law.

## REGULATIONS

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### I. Definitions

1. "**BC Ombudsperson**" means the person appointed as the ombudsperson pursuant to the *Ombudsperson Act* (British Columbia).
2. "**Contractor**" means a person who is currently party to a contract for the provision of goods or services to the University (other than an employment or collective agreement), and a party who was formerly party to such a contract with the University if a Wrongdoing occurred or was discovered during the term of the contract.
3. "**Designated Officer**" means the senior official(s) designated by the President from time to time. As of the date of this Policy, the Designated Officer is:
  - a) the AVP, People and Culture; or
  - b) if the request or advice or a Disclosure relates to alleged Fraud or Irregularity under the *Fraud Risk Management Policy*, the Director, Internal Audit.

If the President should designate a different senior official, the President's designation governs.

4. **“Discloser”** means the Employee(s) who makes a Disclosure under this Policy.
5. **“Disclosure”** means a report of Wrongdoing made under this Policy.
6. **“Employee”** means each of the following:
  - a) a current employee of the University, and a former employee if a Wrongdoing occurred or was discovered during their employment; and
  - b) a current member of the University’s Board of Governors, and a former member of the Board, if a Wrongdoing occurred or was discovered during their term on the Board.
7. **“Investigation”** means an investigation of a Disclosure undertaken by the University under this Policy or by the BC Ombudsperson under PIDA.
8. **“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 and Disaster Management Act*, or
  - c) in any other case, an appropriate police force in British Columbia.
9. **“Reprisal”** means taking or threatening to take the following measures against a person, or counselling or directing that any of the following measures be taken against a person, by reason that the person has, in good faith, made a request for advice, a Disclosure or a complaint about reprisal or cooperated with an investigation under PIDA or this Policy:
  - a) with respect to an Employee,
    - (i) a disciplinary measure;
    - (ii) a demotion;
    - (iii) a termination of employment; or
    - (iv) any measure that adversely affects the Employee’s employment or working conditions;
  - b) with respect to a Contractor:
    - (i) a termination of a contract or agreement,
    - (ii) withholding a payment that is due and payable under a contract or agreement, or
    - (iii) refusal to enter into a subsequent contract or agreement.

10. **“Respondent”** means a person about whom allegations of Wrongdoing are made.
11. **“Supervisor”** means:
  - a) for Employees, the Employee’s administrator, manager or supervisor, as applicable; and
  - b) for members of the University’s Board of Governors, the Chair of the Board of Governors; and
  - c) for the Chair of the Board of Governors, the Audit Committee of the Board of Governors.
12. **“Wrongdoing”** means any one of the following:
  - a) a serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada;
  - b) 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;
  - c) a serious misuse of public funds or public assets;
  - d) gross or systemic mismanagement, including breaches of the University’s policies and associated regulations; and
  - e) knowingly directing or counselling a person to commit any act or omission described in paragraphs (a) to (d) above.

## II. Duties and Responsibilities

1. Employees must act in good faith based on a reasonable belief that Wrongdoing has or is about to occur, in accordance with this Policy and Regulations.
2. The President is responsible for administering this Policy, assigning the role of Designated Officer and ensuring that instruction is available to all Employees about PIDA, this Policy and the Regulations. In the event that the President is unable or unavailable to perform their duties under this Policy, the President may delegate their authority in writing to one or more senior University officials.
3. The Designated Officer is responsible for exercising the responsibilities assigned to them by the President under this Policy and Regulations.
4. Supervisors are responsible for responding to requests for advice from Employees, receiving Disclosures and referring Disclosures to the Designated Officer as set out in these Regulations.

5. Nothing in this Policy relieves those responsible for the administration and management of the University from their responsibilities to address Wrongdoing or other types of misconduct or improper activity in accordance with good management practices and other policies, guidelines and procedures.

### **III. Privacy and Confidentiality**

1. Everyone must protect all confidential information and all personal information collected, used or shared as part of a request for advice, Disclosure, complaint about Reprisal or Investigation to the extent possible under applicable legislation, University policies, and applicable collective and employment agreements.
2. Employees must take reasonable precautions to ensure that personal information is not disclosed in a request for advice, Disclosure or complaint about Reprisal beyond what is reasonably necessary.
3. Employees must maintain strict confidentiality with respect to all personal information – including the identity of those involved – related to a request for advice, Disclosure, complaint about Reprisal or Investigation under this Policy and Regulations and must not disclose such information. If Employees have any questions about their confidentiality obligations, they are encouraged to ask the Designated Officer.
4. Supervisors and the Designated Officer must advise Employees who request advice, make a Disclosure or a complaint about Reprisal or participate in an Investigation about these privacy and confidentiality obligations.
5. Supervisors and the Designated Officer must only collect, use and disclose personal information, particularly if it may reveal the identity of a Discloser or Respondent, necessary to fulfill their responsibilities under this Policy or as otherwise permitted by this Policy, PIDA and FIPPA, including to comply with other applicable laws and agreement and ensure a fair and appropriate Investigation.

### **IV. Who May Make a Disclosure**

1. Employees may disclose Wrongdoing under this Policy and may request advice on doing so.

Note that a Contractor may not make a Disclosure or a request for advice under PIDA or this Policy.

2. In accordance with PIDA, former employees or Board members who were not employed by the University or on the University's Board (as the case may be) at the time the Wrongdoing occurred or was discovered, Contractors, members of the public, volunteers, and students may not make a Disclosure under this Policy, and must avail themselves of opportunities for disclosure under the Whistle Blower Policy, another relevant University policy, or an internal or external process.

A person who receives a Disclosure under this Policy which ought to have been made under a different University Policy or process, shall either: address the matter under this Policy, or forward the Disclosure to the appropriate person under the relevant University Policy or process, and notify the person who made the Disclosure (if possible).

## **V. How to Ask for Advice**

1. An Employee may request advice about making a Disclosure or a complaint about Reprisal from:
  - a) the Employee's union representative or employee association representative as applicable;
  - b) a lawyer (retained by the Employee, at the Employee's cost);
  - c) the Employee's Supervisor;
  - d) the Designated Officer identified in the Definitions section of these Regulations; or
  - e) the BC Ombudsperson.
2. An Employee who requests advice about making a Disclosure is protected from Reprisal regardless of whether they make a Disclosure.
3. All requests for advice must be in writing, unless otherwise approved by the Supervisor or Designated Officer (as the case may be).
4. A Supervisor or Designated Officer must review and respond to a request for advice with appropriate assistance and consultation. A Supervisor or Designated Officer who receives a request for advice shall seek to respond where practicable, in writing and within 20 business days of receiving the request unless a shorter time period is required by an applicable collective or other employment agreement.

## **VI. How to Make a Disclosure**

1. An Employee who reasonably believes that a Wrongdoing has been committed or is about to be committed may, in good faith, make a Disclosure to any of the following:
  - a) their Supervisor;
  - b) the Designated Officer; or
  - c) the BC Ombudsperson.

A Contractor who reasonably believes that a Wrongdoing has been committed or is about to be committed may, in good faith, report such Wrongdoing to the Designated Officer, who will consider such a report similarly to an anonymous Disclosure under

section XII.

2. Disclosures should be made in a timely manner.
3. A Disclosure must be in writing using the Disclosure Form (as amended from time to time by the AVP, People and Culture) and include the following information if known:
  - a) a description of the Wrongdoing;
  - b) the name of the person(s) alleged to have committed the Wrongdoing, or to be about to commit the Wrongdoing;
  - c) the date or expected date of the Wrongdoing;
  - d) whether information or conduct that is being disclosed relates to an obligation under a University policy or process, or a statute and, if so, the name of that policy, process or statute; and
  - e) whether the Wrongdoing has already been reported, and, if so, the name of the person to whom it was reported and the response, if any, that the Discloser received.
4. A Disclosure that is being delivered to a Designated Officer must either be sent by email to [humanresources@tru.ca](mailto:humanresources@tru.ca) or [internalaudit@tru.ca](mailto:internalaudit@tru.ca) or by regular mail to:

People and Culture  
805 TRU Way  
Kamloops, BC V2C 0C8

## **VII. Anonymous Requests and Disclosures**

1. Disclosers may anonymously request advice from the Designated Officer. The Employee must provide sufficient information to inform the advice, and identify a reasonable, reliable, and confidential means by which the Designated Officer may communicate with the anonymous Employee.
2. A Discloser may make a Disclosure anonymously.
3. Disclosers considering anonymous Disclosures should be aware that the person receiving the Disclosure may be unable to seek clarification or further information from them, which may impact an Investigation of the Disclosure. Similarly, an anonymous Discloser may not be notified further about an Investigation under these Regulations. If an anonymous Discloser provides contact information, notification may be sent to the Discloser at the discretion of a Designated Officer.

## **VIII. When Public Disclosure is Permitted**

1. Employees may make public disclosures under limited circumstances. Employees making public disclosures must meet the following conditions:
  - a) the Employee reasonably believes there is a matter that constitutes an imminent risk of a substantial and specific danger to the life, health or safety of persons or to the environment;
  - b) the Employee has consulted with the relevant Protection Official (public health Official, Emergency Management BC, or police as defined in this Policy) before making the Disclosure;
  - c) the Employee has received direction from that Protection Official and is following it, including if the Protection Official directs the Employee to not make a public disclosure;
  - d) the Employee does not disclose or share anyone's personal information except as necessary to address the urgent risk; and
  - e) the Employee does not disclose any information that is privileged or subject to a restriction on disclosure under PIDA or another enactment of British Columbia or Canada, including solicitor-client privilege, litigation privilege or another ground of common law privilege, or public interest immunity.
2. Employees are expected to obtain appropriate advice if they are uncertain about what information may be disclosed as part of a public disclosure.
3. An Employee who makes a public disclosure must, immediately following the public disclosure, notify their Supervisor or the Designated Officer about the public disclosure, and submit a Disclosure in accordance with Section VI above (How to Make a Disclosure).
4. If an Employee reasonably believes there is a matter that constitutes an imminent risk of a substantial and specific danger to the life, health or safety of persons or to the environment but does not wish to make a public disclosure or is directed by a Protection Official not to do so, the Employee is nevertheless expected to report their concerns to the University in accordance with this Policy, without delay.

## **IX. Consequences of Non-compliance**

1. An Employee found to have engaged in Wrongdoing may be subject to disciplinary action, up to and including termination of employment. A Contractor found to have engaged in Wrongdoing may be subject to remedies available under their contract, including termination.
2. An Employee who makes a bad faith, malicious or intentionally false Disclosure, or an Employee or Contractor who obstructs, makes a false statement to, or misleads or attempts to mislead, a person in the performance of their duties, powers or functions under this Policy, may be subject to, for Employees, discipline, up to and including termination of employment, or for Contractors remedies available in their



contract, such as termination of said contract. Separately, the Employee or Contractor might face other legal actions, including allegations of offenses under PIDA, or civil remedies sought by the impacted individual(s) (for example, seeking damages for defamation).

3. Any breach of confidentiality and privacy is serious. An Employee or Contractor who does not strictly protect confidentiality and privacy as required by this Policy and Regulations, and applicable law, may be subject to, for Employees disciplinary action, up to and including termination of employment or, for Contractors, remedies available in their contract, including termination of said contract. Separately, the Employee or Contractor might face other legal actions, including allegations of offenses under PIDA, or civil remedies sought by the impacted individual(s).
4. The protection against Reprisals provided to Employees and Contractors does not apply to protect an Employee or Contractor from the consequences of their own Wrongdoing, misconduct or improper activity unrelated to their rights under PIDA or this Policy. For certainty, if an Employee's request for advice or Disclosure or an Employee's or Contractor's complaint about a Reprisal or participation in an Investigation under this Policy relates to their own conduct in respect of a Wrongdoing, the Employee or Contractor remains responsible for the Wrongdoing.
5. An Employee or a Contractor who engages in any Reprisal may be subject to discipline, up to and including termination of employment.

## **X. Receiving and Reviewing Disclosures**

1. Upon receiving a Disclosure, the Supervisor or Designated Officer must date stamp the report and follow any other process established for receiving Disclosures.
2. The Designated Officer must ensure that the Disclosure is reviewed in a timely manner in accordance with these Regulations.

## **XI. Referral of Disclosure to Designated Officer**

1. A Supervisor or Designated Officer who receives a Disclosure must promptly refer the Disclosure, as applicable, including all forms, documents and other materials supplied by the Discloser, as follows:
  - a) unless the allegations concern alleged Wrongdoing by the President, a member of the Board of Governors or any Designated Officer, the Disclosure shall be referred to the Designated Officer;
  - b) if the allegations concern alleged Wrongdoing by the Designated Officer, the Disclosure shall be referred to the President, who shall fulfil the functions of the Designated Officer or delegate their duties to another senior executive of the University who shall fulfil the functions of the Designated Officer;
  - c) if the allegations concern alleged Wrongdoing by the President or a member of the Board of Governors (other than the Chair of the Audit Committee of the

Board), then the Disclosure shall be referred to the Chair of the Audit Committee of the Board, who shall fulfil the functions of the Designated Officer;

- d) if the allegations made in a Disclosure concern wrongdoing by the Chair of the Audit Committee or by all of the officials listed in subparagraphs (a), (b), and (c), then the Disclosure will be referred to the BC Ombudsperson.

## **XII. Review and Determination of Whether an Investigation is Warranted**

1. After a Disclosure is received from any source, including referral from a Supervisor, the Designated Officer will conduct a preliminary review of the Disclosure and decide normally within 20 business days whether an Investigation is required and the form of the Investigation. The Designated Officer must assess each Disclosure received for the risk of Reprisal against the Discloser (regardless of whether the Disclosure will be investigated).
2. The Designated Officer may communicate with and request information from the Discloser in order to make this determination.
3. If the Designated Officer reasonably believes there is an imminent risk arising from the information provided in a Disclosure, they may report the matter to an appropriate Protection Official.

## **XIII. Where an Investigation is Not Warranted**

1. The Designated Officer may elect not to proceed with an Investigation or to stop an Investigation at any time if the Designated Officer reasonably believes:
  - a) the Disclosure was not made by an Employee as defined in this Policy;
  - b) the allegations, if proven, do not constitute Wrongdoing;
  - c) the Disclosure relates primarily to:
    - (i) a dispute between the Employee and the University about an employment matter;
    - (ii) a law enforcement matter being addressed by the police force;
    - (iii) a matter relating to the prosecution of an offence; or
    - (iv) the exercise of an adjudicative function of a court, tribunal or other statutory decision-maker, including a decision or the processes and deliberations that have led or may lead to a decision;
  - d) the Disclosure does not provide adequate particulars of the Wrongdoing;

- e) the Disclosure is frivolous or vexatious or has not been made in good faith;
  - f) 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;
  - g) the Disclosure relates solely to a public policy decision;
  - h) the Disclosure is already being or has been appropriately investigated by the BC Ombudsperson, the University or other appropriate authority; or
  - i) PIDA otherwise requires or permits the University to stop or suspend the Investigation.
2. If the Designated Officer determines that the Disclosure does not warrant Investigation under this Policy but involves a matter which may be appropriately addressed through another process (including the grievance process), the Designated Officer will re-direct the matter to the entity responsible for that process.
3. The Designated Officer may refer a Disclosure to the BC Ombudsperson and law enforcement, considering factors such as:
- a) whether the subject matter of the Disclosure would be more appropriately dealt with by another authority;
  - b) the complexity of the subject matter of the Disclosure;
  - c) whether a real or perceived conflict of interest exists;
  - d) the resources and expertise required to conduct a fair and effective Investigation; and
  - e) if the subject matter relates to an individual with authority over the Designated Officer.
4. The Designated Officer may postpone or suspend an Investigation if the Designated Officer:
- a) reports to a law enforcement agency an alleged offence they have reason to believe has been committed in relation to the Disclosure;
  - b) considers that the Investigation may compromise another investigation; or
  - c) finds that the alleged Wrongdoing is also being investigated for the prosecution of an offence.
5. The Designated Officer will notify the Discloser and, if appropriate, the Respondent(s), if they refuse, stop, postpone or suspend an Investigation or refer the Investigation to another process or authority, including the reasons for the

decision. The Designated Officer will also notify the President unless the President is alleged to be responsible for the Wrongdoing, in which case the Designated Officer will notify the Chair of the Audit Committee of the Board of Governors and any other person required by PIDA.

#### **XIV. Investigations of Wrongdoing**

1. Every person involved in Investigations under this Policy must carry out their functions in an expeditious, fair and proportionate manner as appropriate in the circumstances, as required under this Policy, PIDA and in accordance with applicable obligations under a collective or employment agreement.
2. Investigations will be conducted in accordance with the principles of procedural fairness and natural justice and conducted in accordance with applicable legislation, policy and agreements. Without limitation, such obligations will normally require that Respondents of the Disclosure be informed of the nature of the allegations and have an opportunity to respond to the allegations. The Designated Officer is not required to hold a hearing.
3. Where the Designated Officer decides that an Investigation is warranted, the Designated Officer will manage the Investigation, with appropriate assistance and consultation, depending on the nature of the Disclosure.
4. Subject to the provisions of Section XIII (Where an Investigation is not Warranted), the Designated Officer may expand the scope of an Investigation beyond the allegations set out in the Disclosure or complaint about Reprisal to ensure that any potential Wrongdoing discovered during an Investigation is investigated. If more than one Disclosure is received with respect to the same or similar Wrongdoing, a single Investigation into the alleged Wrongdoing may be conducted.
5. The Designated Officer shall seek, where practicable, to review Disclosures within 20 business days and to investigate Disclosures within 120 business days. The Designated Officer may shorten or extend this time period depending on the nature and complexity of the allegations.
6. The Designated Officer may seek assistance from the BC Ombudsperson for an Investigation or refer a Disclosure in whole or in part to the BC Ombudsperson provided that notice of the referral is provided to the Discloser.

#### **XV. Reporting the Results of an Investigation**

1. The Designated Officer will provide a report on the findings of the Investigation, reasons and any recommendations to the President or, in the case of an Investigation involving the President, to the Chair of the Audit Committee of the Board.
2. The Designated Officer will ensure that any corrective actions recommended are implemented in accordance with relevant legislation, policy and agreement.

3. Subject to the University's obligations under FIPPA, the Designated Officer will seek to provide an appropriate summary report within 20 business days of the Investigation being completed to the Discloser and the Respondent(s). The obligation to provide such a report does not apply to a Discloser who submits a Disclosure anonymously.

## **XVI. Transition**

1. All reports made and investigations ongoing under the prior Whistle Blower Protection Policy as of the date of the adoption of this Policy will continue under that policy, except that new matters that arise with respect to an existing report or investigation (e.g. an alleged Reprisal) must be brought under this Policy.
2. This Policy is adopted before the Province of British Columbia makes PIDA applicable to the University and its Employees and Contractors (expected in December 2024). Nonetheless, the University will adhere to this Policy upon adoption by the Board of Governors. However, Employees and Contractors are advised that the legal protections and rights created by PIDA do not apply until PIDA is made to apply to the University.

## **XVII. Related documents and legislation**

- Conflict of Interest, TRU Policy ADM 04-2
- Fraud Risk Management, TRU Policy BRD 27-0
- Respectful Workplace and Harassment Prevention, TRU Policy BRD 17-0
- Whistleblower, TRU Policy BRD 18-0
- *Thompson Rivers University Act*
- *University Act*
- *Criminal Code*
- *Emergency Program Act*
- *Freedom of Information and Protection of Privacy Act*
- Collective Agreements between Institution and TRUFA, CUPE 4879, TRUOLFA
- Benefits and Working Conditions of Administrative Employees
- [TRU Statement on Academic Freedom](#)