KPU | KWANTLEN POLYTECHNIC UNIVERSITY

HR24 Protected Disclosure Procedure

Category: HR (Human Resources)
Effective Date: November 22, 2022
Approving Jurisdiction: Board of Governors
Administrative Responsibility: President

A. Definitions

1. **Allegations:** reports or assertions made about the behaviour of an individual or individuals that have not been proven.

2. **Appropriate supervisor or vice-president:** usually the appropriate supervisor is the person in charge of the unit in which the employee works or in which the behaviour of concern occurred/is occurring. For faculty, this is usually the dean of the Faculty. The appropriate vice-president is the senior University official with overall responsibility for the area or whomever the President may designate as equivalent.

3. **Authorized activity:** any event, project, delivery of educational content, or other activity, regardless of location, which has been sanctioned by a University official.

4. **Bad faith disclosure or report:** information provided which the discloser knows, or should reasonably have known, is false, and/or is based on inadequate evidence, and/or is intended to cause harm to an individual and/or to the University.

5. **Confidentiality:** held in a state of trust; not disclosed to any person not entitled to have the information.

6. **Conflict of commitment:** a KPU employee engages in non-University activities that are sufficiently substantial or demanding of the employee's time, energy, and attention such that the discharge of the employee's responsibilities to the University is adversely affected.

7. **Conflict of interest:** any situation when a KPU employee has, or could be perceived by a reasonable person as having, a personal or private interest sufficient to cause a reasonable person to question whether the employee is, or could be, influenced in the objective exercise of his/her duties to KPU; and/or where the activities of a KPU employee have the intention or effect of advancing his/her own interests, or those of a

related party in a way that may be detrimental, or potentially detrimental, to the normal operations, the integrity, or the fundamental mission of KPU; and/or deriving personal benefit from an action or decision made in the course of the employee's execution of his/her normal job duties. Conflict of interest may apply to situations where there is actual, potential or an appearance of conflict of interest.

8. **Disclosure:** any written submission of information reporting alleged misconduct, wrongdoing, or irregularity in an acceptable form outlined in the Protected Disclosure Policy to the appropriate University official; a discloser is one who makes a disclosure.

9. **Duty of loyalty to the University:** always respecting the principle of academic freedom, a KPU employee is expected to act in the best interests of the University in any work-related situation or any situation which could reflect upon the University.

10. **Ethical conduct:** activities of the University are conducted honestly, free from any conflict of interest or commitment.

11. **Good-faith disclosure or report:** information provided which is based on the discloser's best understanding of the situation, and/or is based on adequate evidence, and is made in the best interests of the University.

12. **Impartial, impartiality:** disinterested, independent behaviour that is free of favouritism and prejudice; treating all parties with the same consideration.

13. **Innocent respondent:** a person who is named in a disclosure as having committed some wrongdoing and is found, on investigation, to be innocent of the charges, or who did not know or could not reasonably be expected to know that his/her activity constituted wrongdoing (an innocent violation).

14. **Irregularity:** an activity or potential activity that disregards University regulations, policies or procedures, internal controls, standards of good professional practice, law, or any other instance of misconduct or unethical behaviour.

15. **Members of the University community:** employees, including those hired on casual service and other contracts, students, members of the Board of Governors, volunteers, independent contractors who provide services to KPU, alumni, members of the Foundation Board, suppliers, post-doctoral fellows, visiting academics, professors, and administrator emeriti.

16. **Records:** books, documents, maps, letters, memos, meeting agendas and minutes, papers, photos, reports, databases, and any other device on which information is recorded or stored by graphic, electronic, mechanical or other means.

17. **Related party:** a KPU employee's immediate family (e.g., spouse, partner, parent, child, or sibling), or person living in the same household, any other person with whom the KPU employee shares a financial interest, either directly or indirectly, or any entity in which the KPU employee has an ownership interest of greater than 5%.

18. **Reprisal, either direct or indirect:** any action taken by the University or a member of the University community against another member of the University community that adversely affects the status or well-being of the latter. This includes, but is not limited to, disciplinary action, termination, adversely affecting employment conditions, a threat to do any of the above; threatening, intimidating or coercing, discriminating, or retaliating in any manner that affects academic standing, grades, enrolment status or any other rights, opportunities, or privileges of such person or otherwise disadvantages the individual or denies that individual a benefit.

19. **Reputation:** the overall quality or character as seen or judged by people in general; place in public esteem or regard.

20. **Respondent:** an individual against whom an allegation of wrongdoing, and/or irregular or unethical activity has been made.

21. **Student:** A KPU student is defined as an individual who is registered in credit courses or has commenced studies in non-credit courses and has maintained his/her eligibility to register.

22. **University:** in this policy, University refers to Kwantlen Polytechnic University (KPU).

23. **University official:** includes but is not limited to a manager, supervisor, dean, director, vice-president, or President or equivalent as designated by the President.

24. **Wrongdoing:** any act of commission or omission in the context of University activities that is dishonest, unethical, irregular, or appears to involve conflict of interest or commitment, abuse of public trust, or is potentially unlawful, dangerous to any person, or injurious to KPU's interests. Wrongdoing includes, but is not limited to, any gross financial misconduct, breach of University policy, and/or violation of legal or regulatory requirement including theft, fraud or misappropriation of University assets; destruction, removal or concealment of University records or property, forgery, falsification of

university documents; and/or making false claims or statements. Wrongdoing also includes obstructing a person's right to disclose wrongdoing as outlined in the Protected Disclosure Policy and any reprisals for reporting wrongdoing as outlined in the Protected Disclosure Policy.

B. Procedures

See Appendix A: Response to a Protected Disclosure: Schedule of Process Steps

1. Advice Regarding Disclosure of Suspected Wrongdoing or Irregularity Under This Policy

1.1. Any current or former member of the University community who is unsure if a situation involving the University is one that should be reported using the procedures of the Protected Disclosure Policy, or any other KPU policy, shall seek guidance from his/her supervisor, the next level supervisor, or any University official. It is the responsibility of the person consulted to seek out and provide the best advice s/he is able to the member of the University community.

2. Procedures for Disclosure Under This Policy

2.1. Any current or former member of the University community who observes or becomes aware of conduct they reasonably believe constitutes wrongdoing or irregularity is encouraged to make a disclosure in writing as soon as possible after the discloser becomes aware of the situation, providing as much detail as possible to facilitate thorough investigation. Information provided anonymously will not be acted upon unless sufficient detail is provided by the discloser and the information is independently substantiated.

2.2. Recognizing that circumstances will influence how a person chooses to disclose suspected wrongdoing or irregularity, KPU provides four (4) different options:

2.2.1. Employees are encouraged to make their disclosure to their appropriate supervisor; students and other persons connected to KPU are encouraged to make their disclosure to any University official.

2.2.2. If the alleged wrongdoing should involve a supervisor, the disclosure may be made to the next appropriate supervisory level, or to a vice-president, or to the Office of the President.

2.2.3. Should the alleged wrongdoing involve the President or vice presidents, the disclosure may be made to the Chair of Audit Committee of the Board of Governors.

2.2.4. Disclosures may also be made to the confidential external service retained by KPU to receive such disclosures. *(KPU Listens)*

2.3. Where a University official receives a disclosure of alleged wrongdoing or irregularity, which meets the criteria of this policy, the related information is to be provided to the Director, Business Performance and Advisory Services. The Director, Business Performance and Advisory Services will also receive details of any allegations disclosed to the Audit Committee, or disclosed through the confidential external service.

2.4. Regardless of the option chosen to disclose suspected wrongdoing at, or connected to, the University, KPU will properly investigate the disclosure and provide protection to any member of the University community who makes such a disclosure.

2.5. All disclosures made under this policy, regardless of the option chosen for disclosure, will be logged as soon as they are received on a single tracking system, and will be reported by the Director, Business Performance and Advisory Services to the Audit Committee of the Board of Governors during all Committee meetings.

2.6. KPU expects that all disclosures will be made in good faith: i.e., they will be based on the discloser's best understanding of the situation and be made in the best interests of the University.

2.7. Any supervisor or other University official who does not forward a disclosure of wrongdoing or irregularity to the Director, Business Performance and Advisory Services within five (5) working days of receiving it will be subject to disciplinary action up to and including termination as appropriate.

2.8. Any person who knowingly makes a bad faith disclosure: i.e., the report is false, frivolous, vexatious, or malicious, will be subject to disciplinary action up to and including termination as appropriate.

3. Procedures for Investigation of Disclosure Under This Policy

3.1. When the Director, Business Performance and Advisory Services receives a disclosure of wrongdoing or irregularity, the Director or designate is responsible for beginning a preliminary review of the disclosure within 5 days of receipt of the disclosure, possibly including discussions with the person making the disclosure, and determining if there are reasonable grounds to warrant an investigation. If, upon completion of the preliminary review, the Director determines that an investigation is warranted it will be initiated as soon as possible.

3.2. The Director, Business Performance and Advisory Services may decide not to proceed with an investigation under this policy or to stop an investigation at any time when:

3.2.1. The disclosure does not provide sufficient information to conduct a thorough investigation;

3.2.2. The disclosure is more appropriately dealt with through another mechanism, policy, or procedure;

3.2.3. It is determined that the disclosure was not made in good faith, and/ or, on the basis of reasonable belief, is frivolous, vexatious, and/or malicious;

3.2.4. Other valid reason.

3.3. Investigations of disclosures of alleged wrongdoing or irregularity will be overseen and coordinated by the Director, Business Performance and Advisory Services.

3.4. The University shall take all appropriate action to carefully, fully, and impartially investigate disclosures of alleged wrongdoing or irregularity.

3.5. The Director, Business Performance and Advisory Services, or designate, will respond to the discloser within ten (10) working days of receiving the disclosure to acknowledge the disclosure and explain the investigation process and likely timeframe.

3.6. In circumstances where either the discloser or the person who is alleged to have committed the wrongdoing involves both the University and any affiliated or associated entity, the President will communicate with directors of the affiliated or associated entity to determine how to proceed with any investigation if deemed necessary.

3.7. Investigations will be completed as quickly as possible, preferably within three (3) calendar months of the appointment of the investigators, and will be conducted in accordance with the requirements of any legislation, or applicable collective or other agreements in effect at the time of the investigation. The investigators may use the services of appropriate professionals should this seem advisable.

3.8. The investigators will have access to all relevant University premises and records. Investigators are entitled to request a confidential meeting with any member of the University community who may have knowledge of the matter. All members of the University community are expected to provide full cooperation with the investigators subject only to legal rights including those under relevant collective or other agreements in effect at the time of the investigation. No person, knowing that information, a document, record, or article is likely to be relevant to an investigation, shall

3.8.1. Destroy, mutilate or alter the document, record or article;

3.8.2. Falsify an existing document or create a false document or record;

3.8.3. Knowingly make a false or misleading statement;

3.8.4. Conceal or withhold information, a document, record, or article;

3.8.5. Direct, counsel, or cause, in any manner, another person to do anything mentioned above (3.8.1– 3.8.4).

3.9. Any person who knowingly impedes the investigation of a disclosure of wrongdoing will be subject to disciplinary action up to and including termination as appropriate.

3.10. Investigations will be conducted with an appropriate level of confidentiality: i.e., details and results will not be discussed with or disclosed to anyone who does not have a legitimate need to know.

4. Procedures to Protect Those Who Make A Good Faith Disclosure

4.1. KPU will make all reasonable efforts to keep the details of a good faith disclosure confidential, and shall protect the identity of the person making the good faith disclosure to the extent possible under legislation, regulation, University policy, and collective agreements in effect at the time of the disclosure.

4.2. KPU will not tolerate any reprisal, either direct or indirect, against anyone who, in good faith, discloses suspected wrongdoing, and the University will investigate and take all appropriate steps to address all allegations of reprisal.

4.3. Any person who experiences harassment, threats, retaliation, or discrimination as a result of making a disclosure of wrongdoing in the context of this policy should immediately inform any senior University official or the Chair of Audit Committee of the Board of Governors.

4.4. The University recognizes that making disclosures of wrongdoing can be stressful and encourages employees who wish to do so to contact the Employee Assistance Program through which they can confidentially access external counseling services.

5. Procedures to Protect the Person Being Investigated

5.1. All persons named in or affected by a disclosure will be treated fairly and consistently regardless of their position or the number of years employed by the University, and all reasonable steps will be taken to protect their identity. They will maintain the rights, privileges and protections afforded to them through applicable legislation, University policies, and collective agreements in effect at the time of the disclosure.

5.2. Where facts gathered during the investigation provide a reasonable indication that wrongdoing or an irregularity has occurred, the respondent(s) will be given a full opportunity to respond in writing to the allegations and to meet with the investigators. The respondent(s) will subsequently be advised of the general outcome of the investigation.

5.3. An innocent respondent or a respondent who commits an innocent violation shall not be subject to retaliation or discipline, and the University shall take all reasonable steps to protect the position, reputation, privacy, and confidentiality of such respondents.

6. Procedures to Protect the Confidentiality of Information Collected in Relation to Investigations of Disclosures

6.1. Information collected during the course of an investigation of a disclosure of alleged wrongdoing will be kept confidential to the extent possible under

legislation, regulation, University policy, and collective agreements in effect at the time of the disclosure.

6.2. Details or results of an investigation will not be disclosed to or discussed with anyone other than those who have a legitimate need to know.

7. Procedures For Reporting the Results of Investigation of Disclosures

7.1. Following careful deliberations by the investigators, the results and recommendations of the investigation will be presented in a written report, to senior University officials as appropriate, the President and to the Chair of the Audit Committee of the Board of Governors. This will take place within four (4) months of receipt of the disclosure by the Director, Business Performance and Advisory Services. If extraordinary circumstances make it necessary, an interim report may be provided that explains the need for additional time.

7.2. Where there is sufficient evidence that wrongdoing or an irregularity may have occurred, the Office of the President, or appropriate vice-president, or associate vice-president of Human Resources will provide to the respondent(s) written summary of the results of the investigation. The respondent(s) have fifteen (15) working days to provide a written response to the written summary. This response will be shared with the Director, Business Performance and Advisory Services, appropriate senior University officials and the President.

7.3. Any actions arising from the investigation will normally be determined by the President on the advice of senior University officials. Should circumstances be such that this is not the appropriate body, then the Audit Committee of the Board of Governors will make the determination. Relevant information may be turned over to law enforcement authorities in circumstances where that action is deemed to be appropriate.

7.4. The individual making the disclosure will be advised of the general outcome of the investigation by the Office of the President, or appropriate vice-president, or associate vice-president of Human Resources after any resulting disciplinary action has been determined. This communication is confidential.

8. Procedures For Ensuring Compliance with the Protected Disclosure Policy

8.1. A summary report of all disclosures made under this policy, which will include the number, nature, and disposition of each one, will be reported to the Audit

Committee of the Board of Governors by the Director, Business Performance and Advisory Services during Audit Committee meetings.

8.2. The Director, Business Performance and Advisory Services is responsible for monitoring compliance with this policy and reporting any breaches to the Chair of the Audit Committee of the Board of Governors.

C. Related Policy

HR24 Protected Disclosure Policy

Appendix A

Response to a Protected Disclosure: Schedule of Process Steps

Maximum Time Allowed	Action
5 Working Days	Where a University official receives a disclosure of alleged wrongdoing or irregularity, which meets the criteria of the policy, the related information is to be provided to the Director, Business Performance and Advisory Services.
Day 1	The Director, Business Performance and Advisory Services receives protected disclosure; logs it on tracking system.
Working Day 5	The Director, Business Performance and Advisory Services, initiates a preliminary review OR refers disclosure for disposition by more appropriate mechanism.
Working Day 10	The Director, Business Performance and Advisory Services, or designate, contacts discloser to acknowledge receipt and advise of the investigative process, OR inform that the disclosure will be reviewed under a more appropriate mechanism.
Working Day 20	Based on the results of the preliminary review, the Director, Business Performance and Advisory Services initiates an investigation OR informs either the appropriate vice president, associate vice president of Human Resources or President that there are insufficient grounds to take any action.
Three calendar months after the disclosure is received	Investigation is completed; if circumstances require, investigators have the option to request additional time.
Four calendar months after the disclosure is received	▪ A written report describing the results of the investigation is presented to Senior University Officials as appropriate, the President and to the Chair of the Audit Committee of the Board of Governors. ▪ Where there is sufficient evidence that wrongdoing or irregularities may have occurred, a summary report is provided to the respondent by the President, or appropriate vice president, or the associate vice president of Human Resources.
Fifteen working days after receiving results of the investigation	Respondent(s) provides written response to the allegations.
Within a reasonable period; without undue delay	Any actions resulting will be effected.
Once action has been taken	The President or appropriate vice-president, or associate vice president of Human Resources will advise the individual making the disclosure of the general outcome of the investigation.