



# A02.01.03 Protected Disclosure (Whistleblower) Policy

<b>Effective Date:</b> December 3, 2013	<b>New:</b> X
<b>Replaces:</b>	<b>Revision:</b> May 2014

## Policy Statement

Douglas College is committed to maintaining the highest ethical standards in all of its activities, ensuring the transparency, accountability and ethical conduct of its employees and governing Board, providing an avenue for Stakeholders to make Protected Disclosures of a Reportable Activity or a suspected Reportable Activity within the College, and to acting on Protected Disclosures.

## Purpose

The purpose of this policy is:

- a. To protect Stakeholders who, in good faith and on the basis of Reasonable Belief, act to expose and report a Reportable Activity within the College by prohibiting subsequent reprisals against them;
- b. To provide a mechanism through which Stakeholders can confidentially disclose a Reportable Activity that they observe in the context of performing their College duties or activities;
- c. To prescribe procedures for making such disclosures;
- d. To provide a mechanism for appropriate investigation of and response to such disclosures; and
- e. To encourage and enable Stakeholders to raise serious concerns within the College.

This policy is not intended to replace policies and procedures already in effect to deal with academic dishonesty, employee or student conduct, harassment, violence or other related issues.

This policy is not designed to question decisions taken by the College, BC Government, Education Council, or the College Board.

Nothing in this policy shall limit or amend the provisions of collective agreements entered into by the College and its employee groups.

## Scope of This Policy

This policy applies in respect to Reportable Activities in or relating to the College, its Stakeholders, or operations.

## Definitions

### 1. **Protected Disclosure:**

The communication of a concern or a report of any Reportable Activity or suspected Reportable Activity by another individual.

### 2. **Reasonable Belief:**

A set of facts or circumstances which would cause a person of ordinary and prudent judgment to believe beyond a mere suspicion that a Reportable Activity is being or has been committed.

### 3. **Reportable Activity:**

A Reportable Activity is:

- a. Suspicious use or misuse of public funds or a public asset;
- b. Accounting, auditing, or other financial reporting fraud or misrepresentation;
- c. 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 the duties or functions of the individual;
- d. Unethical conduct that could significantly harm the College's reputation or public image;
- e. Retaliation for reporting a Reportable Activity in good faith and on reasonable belief or for participating in an investigation into a Reportable Activity; or
- f. Knowingly directing or counselling an individual to commit a Reportable Activity set out in any of paragraphs (a) to (e).

### 4. **Responsible Administrator:**

An administrator responsible for the operations of a Department, Faculty, Centre or other service area, e.g., Dean, Associate Dean, Director, Executive Director or Associate Director.

### 5. **Retaliation:**

Any adverse action taken against a Stakeholder because that person seeks advice on making a Protected Disclosure, makes a Protected Disclosure, co-operates in an investigation of a Reportable Activity, or declines to participate in a Reportable Activity.

## 6. Stakeholder:

Board member, employee, student, College contractor, individual attending College events, facility renter, or user of services such as the Cafeteria, Library or Student Services.

### Reporting Responsibility

Stakeholders are often in the best position to observe ethical misconduct or abuse of public trust because of their proximity to day-to-day College operations.

It is the responsibility of all Stakeholders to comply with the law and the College's policies, to report in a timely way any violation or suspected Reportable Activity related to Douglas College, and to participate in any investigation into a suspected Reportable Activity.

### Acting In Good Faith

Anyone filing a complaint and submitting a Protected Disclosure must be acting in good faith and have Reasonable Belief for believing the information disclosed. Any allegations that prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

### No Retaliation

No person who, acting in good faith and on the basis of Reasonable Belief,

- a. submits a Protected Disclosure;
- b. seeks advice on submitting a Protected Disclosure;
- c. declines to participate in a Reportable Activity; or
- d. cooperates in an investigation into a Protected Disclosure

shall suffer harassment, threats, discrimination or adverse employment consequence.

An employee who retaliates or directs a retaliatory action against someone is subject to discipline up to and including termination of employment.

A Stakeholder (other than an employee) who retaliates or directs a retaliatory action against someone is subject to discipline up to and including termination of contractual relations and/or expulsion from the College.

### Accountability

It is the responsibility of the President and the Senior Management Team to:

- a. Ensure that Stakeholders are made aware of procedures, processes, and resources in place with respect to this policy;
- b. Provide an avenue for receiving and acting upon Protected Disclosures in the College, which includes a channel for direct reporting to the College Board;
- c. Provide an avenue for receiving and acting upon allegations of retaliation against people making Protected Disclosures;
- d. Ensure that the College has appropriate and effective procedures for dealing with Protected Disclosures;
- e. Take appropriate remedial action in response to any finding that substantiates the Reportable Activity;
- f. Implement any organizational reform that is necessary to address any identified systemic issues; and
- g. Report to the Audit and Finance Committee and/or the Human Resources Committee of the College Board on allegations received under this policy and actions taken.

### Confidentiality of Disclosures

The College will treat all Protected Disclosures made under this policy in a confidential and sensitive manner. If appropriate, the College will make reasonable efforts to keep confidential the name(s) of all person(s) reporting allegations. However, people who are reporting should be aware that confidentiality is not the same as anonymity, and in the interest of fairness, those individuals who are reported will, in most cases, be entitled to know the name of the person who has reported them.

All individuals involved in a disclosure or an investigation shall keep the details and results confidential. Detailed results of an investigation will not be disclosed or discussed with anyone other than those who have a legitimate need to know.

### Interim Relief

Notwithstanding any of the above procedures, the Chair of the College Board, the College President or the Responsible Administrator may take whatever interim actions are deemed necessary to protect the safety of Stakeholders and/or prevent damage to College property or reputation pending completion of the investigation.

## Appendix “A”

### Procedures

Any person who observes or encounters evidence of or suspects a Reportable Activity, including being asked to commit a Reportable Activity, should report it immediately to either their Responsible Administrator or the Responsible Administrator of the affected area. In circumstances in which individuals do not feel comfortable reporting to that administrator, a Protected Disclosure may be made directly to any member of the Senior Management Team (“SMT”) or to the Board Chair, via the College Secretary.

The disclosure report is to be factual rather than speculative and is to include sufficient specific information to allow an effective investigation, such as:

- a. The type of potential conflict;
- b. The nature of the activity;
- c. A description of all parties involved;
- d. The potential financial interests and rewards;
- e. Possible violations of provincial and federal law and/or College Policy and Procedures;  
and
- f. Any other information necessary to evaluate the disclosure.

This policy encourages individuals to include their names with any Protected Disclosures they make. Protected Disclosures must be put in writing and should be signed or otherwise identified. The submission may be done by e-mail to [ProtectedDisclosure@douglascollege.ca](mailto:ProtectedDisclosure@douglascollege.ca), which will be received by the Associate Vice President, Human Resources and directed to the appropriate member of SMT. A submission may also be made by phone, e-mail or regular mail addressed to any member of the SMT or to the Chair of the College Board, via the College Secretary.

Concerns expressed anonymously are much less powerful; however, anonymous reports may be considered at the discretion of the recipient of the Protected Disclosure. In exercising this discretion, the recipient will take the following factors into account:

- a. The seriousness of the issue(s) raised;
- b. The credibility of the concern; and
- c. The likelihood of confirming the allegation from alternate credible sources.

Within five (5) working days of receiving notice in writing of a Reportable Activity, the recipient will confirm receipt of the report to the person making the Protected Disclosure. The action taken will depend on the nature of the Reportable Activity, but may include referring the matter to:

- a. The President or appropriate Senior Management Team member(s) to pursue under existing policy or collective agreement provisions;
- b. An external investigator;
- c. The external auditor;
- d. Legal counsel; or
- e. The police or other appropriate authorities.

If the Protected Disclosure involves allegations against an employee, the recipient of the disclosure is to notify the Associate Vice President, Human Resources immediately of the existence of the report. If the Reportable Activity involves allegations against the Associate Vice President, Human Resources, the disclosure should be directed immediately to the College President. If the allegations are against the President or any member of the College Board, the disclosure should be directed immediately to the Chair of the College Board, via the College Secretary.

The Chair of the College Board, the Chair of the Human Resources Committee or the Chair of the Audit and Finance Committee of the College Board may call upon the College President, legal counsel, external auditor, or other external advice to investigate and report on the allegation.

All complaints and the summary results of investigations will be forwarded to the Associate Vice President, Human Resources and reported on a quarterly basis to both the Audit and Finance Committee and the Human Resources Committee of the College Board, which will review actions taken and determine whether changes to College policies, procedures or controls are recommended or required. The Associate Vice President, Human Resources will retain reports of Reportable Activity and any resulting investigations for a period of not less than seven (7) years.

In addition to, and apart from, any penalty provided for by law, a Stakeholder is subject to appropriate disciplinary action, including termination of employment or expulsion from the College, if he or she commits, or counsels or directs someone to commit, a Reportable Activity.

The person making a Protected Disclosure under this policy will be informed of the outcome of the disclosure, i.e., whether or not the allegations were investigated and if so, whether they were founded.

## Appendix “B”

### Related Legislation

- Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165
- Personal Information Protection Act, S.B.C. 2003, c. 63
- Workers Compensation Act, R.S.B.C. 1996, c. 492
- Human Rights Code, R.S.B.C. 1996, c. 210
- Labour Relations Code, R.S.B.C. 1996, c. 244
- Employment Standards Act, R.S.B.C. 1996, c. 113
- Criminal Code of Canada, R.S.C. 1985, c. C-46

### Related Policies ([Administration Policies](#) homepage)

- A02.01.01 Conflict of Interest
- A02.06.03 Health & Safety
- A10.01.05 Violence Prevention Involving College Employees
- A10.01.06 Violence Prevention Involving Students/Users
- A10.02.01 Standards of Conduct Involving College Employees
- A10.02.02 Standards of Student/User Conduct
- A20.01.03 Use of College Resources