

Public Interest Disclosure (Whistleblower Protection) Act (PIDA)

Supervisor Toolkit

Introduction

The *Public Interest Disclosure (Whistleblower Protection) Act* (PIDA), was recently amended. These changes will come into force on March 1, 2018, and they will directly affect supervisors. This Toolkit provides supervisors with guidance about their role under PIDA.

The role of supervisors under PIDA is to provide information or advice about the disclosure process to employees who ask for this assistance. To carry out this role effectively, supervisors are expected to be familiar with PIDA and should read the following documents:

1. Employee Fact Sheet – <http://www.psc.alberta.ca/pida/employeefactsheet.pdf>
2. Procedures to Manage Disclosures – <http://www.psc.alberta.ca/PIDA/procedures-to-manage-disclosures.pdf>

Supervisors should direct questions about PIDA, or their role under PIDA, to the Designated Officer or the Office of the Public Interest Commissioner. Their contact information is provided at the end of this document.

Frequently Asked Questions

Who is a supervisor under PIDA?

PIDA does not define “supervisor,” however, it protects employees who seek information or advice about the disclosure process from their supervisors against reprisal. An employee’s supervisor is the person to whom that employee directly reports. Anyone with employees who directly report to them is a supervisor under PIDA.

What is the role of supervisors under PIDA?

Employees who are considering making a disclosure under PIDA may seek information or advice about the disclosure process from their supervisor.

Supervisors may require that requests for information or advice be provided in writing. They are strongly encouraged to use the “**Record of Information and Advice from Supervisor**” form provided in this Toolkit for this purpose.

Do employees have to talk to their supervisors before making a disclosure?

No. Employees who seek information or advice from their supervisors are protected against reprisal as soon as they take this step, but they do not need to speak with their supervisors in order to make a disclosure under PIDA. Employees may also seek information or advice about the disclosure process from the Designated Officer for the APS, their Deputy Minister (referred to as a “chief officer” under PIDA), or the Office of the Public Interest Commissioner.

Can supervisors accept whistleblower disclosures?

No. Supervisors cannot accept disclosures under PIDA. Their role is limited to providing information or advice to employees who are considering making a disclosure.

Employees who wish to make a disclosure have two options: (1) they may make a disclosure to the Designated Officer for the APS, or (2) they may make a disclosure directly to the Office of the Public Interest Commissioner.

What does “information or advice” mean?

Information or advice is limited to information about the disclosure process, including an employee’s options for making a disclosure and how employees can contact the Designated Officer or the Office of the Public Interest Commissioner. It also means advising employees who seek information or advice, or ultimately make a disclosure, that they are protected against reprisal. Reprisal involves action taken against employees because of their participation in the disclosure process or refusal to engage in wrongdoing, and it includes changes that adversely affect working conditions, such as suspension, reduction in pay, demotion, discipline, transfer, or termination.

It is not the role of a supervisor to advise whether alleged conduct is “wrongdoing” under PIDA, or to express any views about whether employees should make a disclosure.

What is “wrongdoing” under PIDA?

PIDA applies to significant and serious wrongdoing that is harmful to the public interest. “Wrongdoing” under PIDA includes engaging in, or directing or counselling someone to engage in, the following conduct:

- Actions that are contrary to federal or provincial legislation or regulations;
- Actions or omissions that create a substantial and specific danger to the life, health, or safety of individuals or the environment;
- Gross mismanagement of public funds, a public asset, or the delivery of a public service;
- Gross mismanagement of employees through bullying, harassment, or intimidation that is systemic in nature and indicates a problem with organizational culture.

PIDA does not apply to:

- Dangers that are inherent in an employee’s job duties;
- Day-to-day human resources matters that would ordinarily be dealt with under the Collective Agreement, Respectful Workplace Policy, or other internal mechanisms.

Can employees who have concerns about workplace bullying or harassment make a disclosure under PIDA?

PIDA only applies to workplace bullying or harassment where that conduct is widespread and systemic in nature. For PIDA to apply, the conduct must be so severe that it affects the overall culture of an organization. Any other concerns about workplace conflict should be dealt with through internal mechanisms like the Collective Agreement or the Respectful Workplace Policy, and employees should be provided with information about how to access these processes.

Disclosures involving allegations of systemic bullying or harassment will only be investigated by the Designated Officer or the Public Interest Commissioner if employees have first used and considered these other resolution mechanisms.

Should supervisors take notes when employees ask for information or advice about PIDA?

PIDA permits supervisors to require that employees who seek information or advice about the disclosure process to provide their request in writing.

As soon as employees seek information or advice from their supervisors, the reprisal protections under PIDA are triggered. It is therefore important to have a record that reflects when the interaction took place and the information provided. Supervisors are strongly encouraged

to use the **Record of Information or Advice from Supervisor** form included with this Toolkit. In addition to providing a record of when the interaction took place, the form also provides supervisors with a checklist of the information that should be provided to employees.

Supervisors should advise employees about confidentiality in the PIDA process, and that the forms will be stored in a secure location and not placed on their employee file. If an employee refuses to sign the form, supervisors should make a note on the form indicating this. Supervisors should also offer to provide a copy of the completed form to the employee.

What information should supervisors provide employees about confidentiality?

The role of supervisors under PIDA is to provide information or advice to employees who are considering making a disclosure. The fact that an employee has sought information or advice from their supervisor about a possible disclosure under PIDA is confidential.

In some circumstances, being informed about conduct that may be considered wrongdoing under PIDA may also require that a supervisor escalate the matter by taking appropriate action under internal policies or mechanisms. The confidentiality protections under those processes may not be the same as the protections under PIDA. Supervisors should advise employees that if employees provide information to their supervisors about the nature of the alleged wrongdoing, supervisors may be obligated to escalate the matter internally. While employees will still be protected against reprisal, and their identity as a potential whistle-blower would remain protected, to the extent possible under the PIDA process, the confidentiality of the information they provide may not be subject to the same protections as it would be under PIDA's disclosure process.

Who do supervisors ask if they have questions about PIDA?

Due to the confidentiality protections provided by PIDA, supervisors should direct any questions they have about PIDA or their role under PIDA to the Designated Officer and not to their Human Resources Office. Supervisors may also contact the Office of the Public Interest Commissioner for further guidance. Any questions regarding FOIP should be directed to the departmental FOIP contact.

Contact Information for Designated Officer:

whistleblower@gov.ab.ca
[780-644-5602](tel:780-644-5602)

Contact Information for Public Interest Commissioner:

[Alberta's Public Interest Commissioner](mailto:info@pic.alberta.ca)
info@pic.alberta.ca
Toll free: [1-855-641-8659](tel:1-855-641-8659)
Calgary: [403-592-3106](tel:403-592-3106)
Edmonton: [780-641-8659](tel:780-641-8659)

Other Resources:

- Employee Fact Sheet - <http://www.psc.alberta.ca/pida/employeefactsheet.pdf>
- Procedures to Manage Disclosures - <http://www.psc.alberta.ca/PIDA/procedures-to-manage-disclosures.pdf>
- Record of Information or Advice from Supervisor (below)

Public Interest Disclosure (Whistleblower Protection) Act: Record of Information or Advice from Supervisor

The purpose of this form is to assist supervisors when an employee who is considering making a disclosure under PIDA seeks information or advice about the disclosure process. Inquiries about PIDA and the identity of the employees who seek information or advice about PIDA are confidential. Please store completed forms in a secure location and do not place a copy on the employee's file.

Date: _____

Name of Employee: _____

Checklist of information and advice sought and provided:

- Clarified purpose of discussion and that employee seeking information or advice about a possible disclosure under PIDA
- Informed employee about reprisal protections
- Provided information about confidentiality under PIDA
- Provided overview of options for making a disclosure:
 - Designated Officer
 - Commissioner
- Provided contact information for Designated Officer and Public Interest Commissioner
- If applicable, provided employee with information about other processes under the Collective Agreement and Respectful Workplace Policy

Optional Additional Notes:

Supervisor Name: _____

Supervisor Signature: _____

Employee Name: _____

Employee Signature: _____