



PUBLIC INTEREST COMMISSIONER

A report of the Public Interest Commissioner
in the matter of disclosures of wrongdoing under the
Public Interest Disclosure (Whistleblower Protection) Act

Case #: PIC-20-00070

Allegations Related to Keyano College

August 13, 2021





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Generic language has been used to protect the identity of complainants and witnesses who participated in the investigation.

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Foreword

An effective public service depends on the commitment of everyone who works in it to maintain the highest possible standards of honesty, openness, and accountability. The *Public Interest Disclosure (Whistleblower Protection) Act* (the Act) creates a *confidential* avenue for public servants to speak out about wrongdoings or make complaints of reprisal. Employees of public entities can choose to report internally or, in limited circumstances, directly to the Public Interest Commissioner (the Commissioner). Whether the matter is investigated by the public entity or the Commissioner, Albertans expect the investigation will be thorough, objective, and complete. Whistleblowers have the same expectation and must have confidence their concerns will not be met with reprisal. Management needs to ensure this and should embrace whistleblowing as an opportunity to make positive change.

Mandate

The Act came into force June 2013 and facilitates the disclosure and investigation of wrongdoing or reprisals occurring in government departments, offices of the Legislature and public entities (including provincial agencies, boards and commissions, post-secondary academic institutions, school boards, charter schools, accredited private schools that receive grants and public sector health entities).

The Commissioner is an independent Officer of the Legislature, who reports to the Legislative Assembly. The purpose of an investigation by the Commissioner is to bring the wrongdoing to the attention of the affected department, public entity, or office of the Legislature and to recommend corrective measures. This promotes confidence in the administration of the department, public entity or office of the Legislature and encourages whistleblowers to come forward without fear of reprisal. Our larger aim is to promote a culture in the public sector where employees and managers share a common goal of reporting, investigating, and remedying wrongdoings.

The Act stipulates the Commissioner must prepare a report on completion of an investigation which sets out the findings, reasons for those findings, and any recommendations considered appropriate respecting the disclosure and the wrongdoing. This report fulfills that requirement.



Overview

- 1 Between April 20, 2020, and May 1, 2020, my office received five disclosures of wrongdoing (the Disclosures) under the Act from employees at Keyano College (the College). The Disclosures alleged Dr. Trent Keough, President and CEO of the College grossly mismanaged public funds, public assets, or the delivery of a public service, and grossly mismanaged employees by a pattern of behaviour or conduct of a systemic nature indicating a problem in the culture of the College, relating to bullying, harassment, or intimidation.
- 2 The Disclosures were analyzed to ensure they met the legislative requirements of the Act and determine if an investigation was warranted. I determined further inquiries and analysis were necessary to provide a more comprehensive understanding of the situation, and to decide if an investigation into potential “wrongdoings”, as defined by the Act, was required.
- 3 In circumstances where the organization acknowledges there is a need for an investigation and is willing to work collaboratively with my office, I may return a matter to the affected entity for investigation. Following consultation with the College’s Board of Governors (the Board) the Disclosures were forwarded to the Board, and an investigation was undertaken by a solicitor retained by the Board. I accepted the evidence in subsequent reports submitted by the solicitor, and on April 21, 2021, I resumed conduct of the matter to conclude the investigation. This investigation was a collaborative effort between my office and the Board.
- 4 Prior to the conclusion of the investigation, Dr. Keough resigned from the College. Given the severity of the allegations and the position of public trust held by Dr. Keough, it was in the public interest to continue the investigation despite his resignation.
- 5 The investigation found serious and significant wrongdoing on the part of the former president and CEO of the College. As highlighted in this report, his conduct had financial and reputational implications for the organization, and impacted the culture of the College, particularly affecting those working closest to him. Through the efforts of the complainants, supported by senior executives and the Board, the matter was investigated, and the issues of concern came to light.
- 6 Dr. Keough declined to respond to the allegations or the findings of the investigation.



Allegations

- 7 This investigation examined the following issues:
- 1) Whether Dr. Trent Keough grossly mismanaged senior-level employees of Keyano College by a pattern of behavior or conduct of a systemic nature that indicates a problem in the culture of the College relating to bullying, harassment or intimidation of employees, a wrongdoing as defined under section 3(1)(c)(iii) of the Act.
 - 2) Whether Dr. Trent Keough grossly mismanaged public funds by making financial decisions for the College without proper consultation and authority, a wrongdoing as defined under section 3(1)(c)(i) of the Act.
 - 3) Whether Dr. Trent Keough grossly mismanaged the delivery of a public service by carrying out his duties with a reckless and willful disregard for proper management, a wrongdoing as defined under section 3(1)(c)(ii) of the Act.

Findings

- 8 The findings in relation to this investigation are provided below. The specifics of these findings are detailed in the *Analysis and Conclusion* sections of this report.
- 1) *In relation to the first issue* - The investigation established the conduct of Dr. Keough constituted gross mismanagement of employees, a wrongdoing as defined in section 3(1)(c)(iii) of the Act.
 - 2) *In relation to the second issue* - The investigation established the conduct of Dr. Keough constituted gross mismanagement of public funds, a wrongdoing as defined in section 3(1)(c)(i) of the Act.
 - 3) *In relation to the third issue* - The investigation established the actions of Dr. Keough constituted gross mismanagement of the delivery of a public service, a wrongdoing as defined in section 3(1)(c)(ii) of the Act.



Allegation 1: The Gross Mismanagement of Employees

Process of Investigation

- 9 Gross mismanagement of employees is defined in the Act as an act or omission that is deliberate and shows a reckless or willful disregard for the proper management of employees, by a pattern of behaviour or conduct of a systemic nature indicating a problem in the culture of the organization relating to bullying, harassment, or intimidation.
- 10 The *Alberta Occupational Health and Safety Act* defines harassment as “any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows or ought reasonably to know will or would cause offence or humiliation to a worker, or adversely affects the worker’s health and safety, and includes:
 - a. conduct, comment, bullying or action because of race, religious beliefs, colour, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, gender, gender identity, gender expression and sexual orientation, and
 - b. a sexual solicitation or advance,but excludes any reasonable conduct of an employer or supervisor in respect of the management of workers or a work site”.¹
- 11 Intimidation is generally defined as forcing someone into or deterring someone from an action by inducing fear.
- 12 The Canadian Center for Occupational Health and Safety defines bullying as acts or verbal comments that could psychologically or 'mentally' hurt or isolate a person in the workplace. Sometimes, bullying can involve negative physical contact as well. Bullying usually involves repeated incidents or a pattern of behaviour that is intended to intimidate, offend, degrade, or humiliate a particular person or group of people. It has also been described as the assertion of power through aggression.

¹ *OHS Act*, at section 1(q).



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- 13 The investigation into Issue #1 therefore sought to determine:
- a. Whether acts or omissions by Dr. Keough were deliberate,
 - b. Whether the behaviour or conduct was bullying, harassing, or intimidating in nature,
 - c. Whether the acts or omissions showed a reckless or willful disregard for proper management,
 - d. Whether the acts or omissions were a pattern of behaviour or conduct of a systemic nature, and
 - e. Whether a problem in the culture of the College resulted.

Summary of Evidence

- 14 The disclosures contained several allegations concerning the conduct of Dr. Keough. Employees alleged Dr. Keough engaged in derogatory or demeaning comments made towards employees, gave unnecessary reprimands, intimidated and bullied employees, and made comments which devalued employees. The evidence obtained during the investigation supported the allegations and is generally summarized below:
- a. Witnesses reported Dr. Keough made rude and condescending remarks to employees during internal meetings and public events. Dr. Keough interrupted staff during meetings, would be generally dismissive of the comments and opinions voiced by others, and would be argumentative. Of particular note, witnesses recalled an incident where Dr. Keough shouted at an employee in the presence of others during a public event, and openly dismissed an employee in a condescending manner during a meeting with over 200 participants. The conduct was consistently reported by witnesses who described the incident as part of an ongoing pattern of behaviour.
 - b. Witnesses reported Dr. Keough targeted a specific employee, to the extent that others were worried for the employee's wellbeing. Dr. Keough would assign the employee tasks with difficult timelines and a general lack of direction, give the employee unfavorable and inconsistent treatment in comparison with other staff, ridicule the employee in front of other staff, make condescending remarks, undermine the employee during staff meetings and threaten their employment. This conduct reportedly occurred on a daily basis.



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- c. Witnesses reported employees were fearful of voicing opinions or questioning Dr. Keough. This was particularly noted during “wellness circles” which were meant to function as a collaborative and restorative environment where staff could express opinions and concerns. However, the wellness circles made employees feel uncomfortable and afraid as Dr. Keough would silence them whenever they attempted to voice their opinions. Whenever unfavorable opinions were shared, Dr. Keough would intimidate and undermine employees in the presence of all participating in the wellness circle.

- d. Witnesses further reported Dr. Keough encouraged bullying among other employees. He encouraged the making of derogatory remarks towards those in lower levels of authority and either overtly participated in the act or condoned the negative behaviours with his inaction. Of particular note, Dr. Keough reportedly encouraged other employees to make “quips” about a specific employee during meetings to “toughen up” the employee. Witnesses described Dr. Keough’s conduct as akin to “schoolyard bullying”, by being belligerent, rude, condescending, and embarrassing colleagues in front of each other.

Conclusion

- 15 The investigation found repeated and ongoing incidents of conduct that would be considered bullying, harassment, or intimidation, by Dr. Keough. The comments and actions of Dr. Keough were deliberate, objectionable, and unwelcome, and he ought to have reasonably known that the conduct would have offended or humiliated employees. Further, his conduct intimidated employees and created an atmosphere of fear, effectively silencing dissent or preventing contrary opinions from being shared. There was a belief that retaliation would occur if concerns were brought to Dr. Keough’s attention.

- 16 The actions of Dr. Keough created a harmful work environment and generally caused a problem in the culture of the College. In this regard, Dr. Keough’s conduct demonstrated a reckless and willful disregard for proper management of employees.



Allegation 2: Gross Mismanagement of Public Funds

Process of Investigation

- 17 Gross mismanagement of public funds is defined as an act or omission that is deliberate and shows a reckless or willful disregard for the proper management of public funds.
- 18 Public funds are considered all revenue held by a public entity regardless of source.
- 19 The investigation into Issue #2 sought to determine:
 - a. Whether the actions or omissions of Dr. Keough were deliberate, and
 - b. Whether the actions or omissions showed a reckless or willful disregard for the proper management of public funds.

Summary of Evidence

- 20 The Disclosures described various allegations concerning Dr. Keough's management of public funds and the financial decisions made with respect to the College. The allegations included instances where Dr. Keough made improper and unilateral decisions without consulting others, made unreasonable monetary decisions at a financial cost to the College, and pushed for the development of financially risky projects. The evidence obtained during the investigation supports the allegations, and is generally summarized below:
 - a. Witnesses reported that at the start of the COVID-19 pandemic, Dr. Keough suspended rent payments for students living in the College's residence and provided students with grocery store vouchers. These decisions were made by Dr. Keough without consulting with the College's senior leadership or the Registrar, without there being an evident need to provide such supports to students, and without consideration of other emergency funding already available. Although the costs of these decisions were not quantified, the suspension of rent as a funding source and the expense associated with the cost of food vouchers had a financial impact on the College.



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- b. Witnesses further reported how Dr. Keough sought to lower tuition and waive admission fees for certain students, to increase enrollment. He made an arbitrary announcement to senior management on this initiative without consulting with them and without fully considering the financial feasibility and impacts of such a decision. Ultimately, the initiative did not take effect following the departure of Dr. Keough from the College.
- c. Witnesses described how Dr. Keough attempted to establish various sports teams at the College without conducting proper consultation with the community or senior management, and without assessing the financial viability of the proposed teams. Given prior cutbacks to the College's hockey team, Dr. Keough's decision to implement substantial increases in athletics was not supported by senior management. For example, in 2019, Dr. Keough hired a hockey coach and paid him a salary despite the College not having a team and during a time when the College was facing cutbacks to other programs and departments. It was estimated that had the College implemented two hockey teams per Dr. Keough's direction, the cost incurred would have been over \$1 million dollars. It was unclear to senior management how this funding would have been obtained as no financial plan was developed.
- d. Dr. Keough made efforts to establish a multi-million dollar Art Centre at the College. Witnesses described how the proposal was pushed by Dr. Keough without conducting appropriate consultations in the community as required by the Regional Municipality of Wood Buffalo (the Municipality). At the request of the Municipality, an open-house meeting to discuss the matter did occur; however, during the open house, Dr. Keough attempted to encourage donations towards the Art Centre and associated programs before they were fully approved. The Art Centre was ultimately not supported at the government level and provincial funding for the project was cut in February 2020. Dr. Keough arbitrarily, and without clear rationale, laid off theatre staff as a response to the lost funding.
- e. Dr. Keough's decisions affected the College financially and impacted the workload of employees. Employees were reportedly left to address and implement Dr. Keough's decisions with minimal guidance or planning. These decisions affected the trust and confidence staff placed in Dr. Keough as a leader, and it was viewed as affecting the credibility of the College within the community.



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Conclusion

21 At times, Dr. Keough pursued initiatives and made fiscal decisions regarding the College without properly and appropriately consulting executive leadership within the organization, and without a clear plan or rationale. Although significant losses were not realized, Dr. Keough's arbitrary decision making on these initiatives demonstrated a reckless and willful disregard for the proper management of public funds.

Allegation 3: Gross Mismanagement of the Delivery of a Public Service

Process of Investigation

- 22 Gross mismanagement of the delivery of a public service is defined as an act or omission that is deliberate and shows a reckless or willful disregard for the proper management of the delivery of a public service.
- 23 A public service is any service provided to the public by a public entity. The public service provided by Keyano College is post-secondary education.
- 24 The investigation into Issue #3 sought to determine:
- Whether the actions or omissions of Dr. Keough were deliberate, and
 - Whether the actions or omissions showed a reckless or willful disregard for the proper management of the delivery of post-secondary education at the College.

Summary of Evidence

25 The disclosures described concerns relating to Dr. Keough's ability to effectively and properly manage the affairs of the College. Specifically, that he improperly communicated with employees and failed to collaborate in his decision making, that he was absent from duties resulting in delayed decision making, that he disclosed confidential information, and that he engaged in inappropriate and improper communication with donors and the community at large. The evidence obtained during the investigation supported the allegations, and is generally summarized below:



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- a. Witnesses reported Dr. Keough engaged in communication with staff at the Ministry of Advanced Education in a disrespectful manner. This was viewed as creating an adversarial relationship between the ministry and the College. Of particular note, in a February 18, 2020, e-mail, Dr. Keough wrote to the Deputy Minister and Assistant Deputy Minister of Advanced Education at the time advising them to “get some class”. In this circumstance, Dr. Keough was upset at not getting advance notice of a decision by the Department.
- b. Witnesses described incidents where Dr. Keough inappropriately released confidential information to staff, including sharing details of bargaining mandates and internal investigative findings related to an employee’s conduct. Of particular note, during a February 12, 2020, student event, Dr. Keough disclosed confidential information to an employee regarding impending employee layoffs. This resulted in employees filing union grievances against the College as employment information had not been properly communicated to affected parties or the union. Further, due to Dr. Keough’s absenteeism, the implementation of these layoffs was delayed, and proper and timely communication was not provided to the affected staff.
- c. Witnesses also described how Dr. Keough frequently failed to attend internal and external meetings, including meetings with the Board of Governors, government officials, and the Municipality. Dr. Keough is said to have rarely provided reasonable notice of his inability to attend the meetings. Furthermore, Dr. Keough would often change meeting times, fail to inform employees of their requirement to attend meetings, or cancel meetings without notice. When Dr. Keough attended meetings, he would often derail them by arguing with employees and making decisions that were contrary to policy.
- d. Witnesses further reported how Dr. Keough made demands of employees that were unreasonable given the level of urgency he would place on the task and the timeline provided for completion. Dr. Keough would not consider the expectations placed on employees or the requirements needed to execute the assigned tasks. For example, a witness recalled that Dr. Keough wished to obtain a grant for an anti-racism video. Even though there was no urgency, he demanded staff complete the application immediately, thus requiring them to work overnight. Another witness recalled that Dr. Keough would request that an employee complete tasks outside of their role and position of authority.



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A third witness described how Dr. Keough required an employee to complete a written report on the College's flood response while that employee was actively managing the emergency response to the flood and mitigating potential damage to the College's facilities.

- e. Dr. Keough's communications with donors to the College were described by witnesses as confusing, inappropriate, and unprofessional, and resulted in the College needing to mitigate potential harm to its relationship with donors. Of particular note, after a \$650,000 donation by a donor, Dr. Keough posted on social media that "it was the least [the donor] could do". This prompted an unfavorable response by the donor and on social media. In another incident, following a sizeable donation by a financial institution, Dr. Keough thanked the wrong institution. Witnesses also described how Dr. Keough would refuse to engage or meet with donors. These incidents were viewed by witnesses as irresponsible and inappropriate, and employees felt required to mitigate the harm to the College's public image and reputation.

Conclusion

- 26 Dr. Keough's conduct and actions were intentional. He acted contrary to reasonable expectations of proper management practices of a President and CEO, and demonstrated a reckless and willful disregard for proper management of the affairs of the College.
- 27 There is significant public trust placed in the President and CEO of the College, as this person is responsible for safeguarding assets, ensuring the College's financial continuity, and protecting the College's reputation. Dr. Keough did not meet expectations in this regard.



Recommendations

28 At the conclusion of an investigation, I may make recommendations for corrective measures in the interest of assisting organizations to address the matter appropriately and to advance public confidence. I have decided to make no recommendations that are specific to Dr. Keough as he is no longer employed by the College. As a result of this investigation, I make the following general recommendations:

- 1) *Keyano's Safe Disclosure Procedure* was established per section 5 of the Act, to manage and investigate disclosures of wrongdoing. The procedure lacks information on the process for making a complaint against the President and CEO, who is the chief officer as defined in the Act. Disclosures of wrongdoing relating to the President and CEO, or relating to the Board of Governors, ought to be made directly to the Public Interest Commissioner. It is recommended the College adjust its procedure in this regard. Alternatively, should the Board of Governors wish to receive complaints relating to the President and CEO, it must establish procedures for the management and investigation of those complaints, including the reporting of outcomes to complainants.
- 2) It is recommended the College ensure it maintains best practices related to hiring for executive positions and ensuring that those decisions involve robust and stringent screening and due diligence.
- 3) The Board ensure that it conducts impartial evaluations of the performance of the President and CEO on a regular and scheduled basis. This evaluation should not be perfunctory, but rather a robust evaluation that assesses performance metrics against the Board's business plans and strategies, examines concerns brought forward by employees, and considers results from employee satisfaction surveys.

29 As this matter involved issues that had a significant impact on the administration of Keyano College, and considering that serious wrongdoings were committed by an individual holding a substantial position of trust, decision making and financial authority, I have elected to make a public report on the matter. The report is intended to promote employee and public confidence in the administration of the College, demonstrate the effectiveness of the Act, and report the College's success in applying the Act and collaborating with our office.



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30 My office works to foster a culture that supports whistleblowers, and where management and employees share a common goal of detecting and remedying wrongdoing. In this case, the Board of Governors for Keyano College has supported this culture by taking definitive steps to investigate the allegations brought to its attention. The Board should continue this positive step and encourage the new President and CEO to foster this cultural shift and realize the organizational benefits of a positive whistleblower culture. My office will readily support the new President and CEO and I encourage the College to leverage our resources and experience in this regard.