

LEGISLATIVE ASSEMBLY OF BRITISH COLUMBIA

POLICY MANUAL

SECTION	General
POLICY	6520 – Reporting Suspected Wrongdoing

Objective

To establish an independent and arm's-length process available to current and former Members of the Legislative Assembly and current and former employees of the Legislative Assembly to report suspected wrongdoing within the Legislative Assembly Administration without fear of retaliation.

Application

This policy applies to current and former Members of the Legislative Assembly and current and former employees of the Legislative Assembly appointed under section 39 of the *Constitution Act* (R.S.B.C. 1996, c. 66).

Authority

Legislative Assembly organizational policies are approved by the Legislative Assembly Management Committee, as per *Policy 1000 – Legislative Assembly Policy Framework*.

Key Definitions

“disclosure entity” means the independent and arm's-length third party appointed by the Legislative Assembly Management Committee to administer this policy;

“Ethics Officer” means a senior employee of the Legislative Assembly designated as such by the Clerk of the Legislative Assembly;

“wrongdoing” means:

- a) a serious act or failure to act by an employee or employees of the Legislative Assembly that, if proven, would be an offence under law;
- b) an act or failure to act that creates a substantial and specific danger to the life, health, or safety of persons, or to the Legislative Assembly, other than a danger that is inherent in the performance of an employee's duties or job functions;
- c) a serious misuse of Legislative Assembly funds or assets;
- d) gross or systemic mismanagement within the Legislative Assembly Administration; or
- e) knowingly directing or counselling a person to commit acts described in a) to d).

1. General

- .01 While the Legislative Assembly is not subject to the *Public Interest Disclosure Act* (S.B.C. 2018, c. 22), the processes established under this policy under the authority of the Legislative Assembly Management Committee are intended to encourage and support current and former Members of the Legislative Assembly and current and former employees of the Legislative Assembly (i.e., the Clerk of the Legislative Assembly and those employed within departments of

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the Legislative Assembly Administration under the direction of the Clerk of the Legislative Assembly) to report unlawful acts and acts of wrongdoing within the Legislative Assembly Administration in a manner consistent with the arm's-length provisions of the *Public Interest Disclosure Act*.

- .02 This policy does not prevent a current or former Member of the Legislative Assembly or a current or former employee from discussing circumstances or actions that may constitute wrongdoing or bringing concerns of wrongdoing to the Speaker, the Clerk of the Legislative Assembly, a member of the Clerk's Leadership Group, a department director, or the Ethics Officer. The protections accorded to an employee under section 5 of this policy apply to any such discussion, and the recipient of the information has a duty to safeguard the information and disclose it only to the extent necessary to respond to or investigate the concern.
- .03 The member of the Clerk's Leadership Group responsible for the Legislative Assembly's policy suite must ensure that Members of the Legislative Assembly and employees of the Legislative Assembly
 - a) are aware of this policy;
 - b) have ready access to information on the disclosure entity and how to contact the disclosure entity; and
 - c) have ready access to procedures under this policy and any related support resources prepared by the disclosure entity.

2. Within Scope (Application of Policy)

- .01 Alleged wrongdoing that pertains to the operations of the Legislative Assembly Administration or an employee or employees of the Legislative Assembly may be reported to the disclosure entity.

3. Outside of Scope (Application of Policy)

- .01 Bullying, discrimination, harassment, sexual harassment, or violence is not subject to reporting under this policy and must be reported in accordance with *Policy 4020 – Respectful Workplace* (if the allegation is with respect to conduct of one or more employee of the Legislative Assembly) or the *Respectful Workplace Policy* approved by the Legislative Assembly Management Committee (if the allegation is with respect to conduct of one or more individual in a participant group under that policy).
- .02 An employee must raise and report issues concerning occupational health and safety or disputes about employment matters in accordance with *Policy 4005 – Employee Concern*.

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.03 An employee must raise and report issues concerning the appropriate use of information technology resources in accordance with *Policy 5405 – Appropriate Use of Information Technology Resources*.

.04 An allegation of wrongdoing is not eligible to be reported under this policy if it is from:

- a) an employee who was not an employee at the time that the alleged wrongdoing occurred or was discovered;
- b) an individual employed or contracted by a Member of the Legislative Assembly or a caucus; or
- c) a member of the public.

4. Duty to Report Wrongdoing

.01 *Policy 4015 – Standards of Conduct* establishes a duty for an employee to report wrongdoing in good faith. An employee who covers up, obstructs, or fails to report a known wrongdoing may be subject to disciplinary action.

.02 An employee may consult in confidence with the Ethics Officer if they are uncertain if a matter is within the scope of this policy, meets the reporting threshold under this policy, or if it should be reported under *Policy 3305 – Fraud Awareness, Prevention and Reporting*. An employee may also consult the disclosure entity in confidence if they are uncertain if a matter meets the reporting threshold under this policy or to otherwise discuss the threshold for wrongdoing contemplated under this policy.

5. Protection for Reporting and Prohibition on Retaliation

.01 An employee who seeks advice from the disclosure entity or who makes a report or provides information to the disclosure entity under this policy in good faith can do so without fear of retaliation.

An employee must not be subject to a disciplinary measure, a demotion, a hostile work environment, a termination of employment, or any measure that adversely affects the employee's employment, working conditions or career growth, due to the fact they, in good faith, made a report or request for advice to the disclosure entity or the Ethics Officer, supported an employee who reports a matter under this policy, or cooperated in an investigation by the disclosure entity.

.02 An employee who threatens retaliation against another employee in a matter under this policy will be subject to disciplinary action. An employee may report any threat or retaliation to the disclosure entity or pursuant to *Policy 4005 – Employee Concern*.

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6. Appointment of Disclosure Entity

- .01 An independent and arm's-length third party must be appointed as disclosure entity to serve in an objective and impartial manner in providing advice, receiving reports of wrongdoing and retaliation, undertaking investigations, and otherwise administering this policy.
- .02 The Speaker must, with the support of the Clerk of the Legislative Assembly, select a qualified person or service provider to serve as disclosure entity, and recommend their appointment to the Subcommittee on Administration and Operations of the Legislative Assembly Management Committee.
- .03 The Legislative Assembly Management Committee must, upon recommendation from its Subcommittee on Administration and Operations, appoint the disclosure entity.

7. Authority of Disclosure Entity to Establish Procedures

- .01 The disclosure entity must develop and establish procedures to support the administration of this policy, including, but not limited to:
 - a) the receipt and investigation of reports of alleged wrongdoing within in the scope of this policy;
 - b) the receipt and investigation of a report of retaliation under this policy;
 - c) privacy and confidentiality with respect to reporting, advice or consultation, and investigation processes;
 - d) assessing and mitigating the risk of retaliation against an employee who makes a report under this policy; and
 - e) communicating the outcome of reporting and investigations under this policy in accordance with section 9.01, including if an allegation is determined to be baseless.
- .02 Any procedures established by the disclosure entity must comply with, and cannot supersede, any applicable provisions of this policy.
- .03 The disclosure entity must consult the Speaker and the Clerk of the Legislative Assembly prior to the establishment of any procedure, for the sole intent of identification of possible barriers or intricacies stemming from the Legislative Assembly's unique operating environment for consideration by the disclosure entity.

8. Investigation by the Disclosure Entity

- .01 The disclosure entity must receive matters under this policy and conduct investigations in accordance with procedures established under section 7.01. An investigation by the disclosure entity must be proportionate and be carried out expeditiously and in accordance with the principles of procedural fairness and natural justice.

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- .02 A Member of the Legislative Assembly and an employee participating in an investigation by the disclosure entity must cooperate in the investigation and provide records and complete information to the best of their knowledge to the disclosure entity.
- .03 The disclosure entity must take all reasonable steps to protect the privacy of any individual who reported alleged wrongdoing or retaliation, who is accused of alleged wrongdoing or instigating retaliation, and who participates in an investigation by the disclosure entity.
- .04 Any collection, use, or sharing of personal information by the disclosure entity must be limited to personal information that is reasonably required for these purposes and must only be disclosed to the extent required to facilitate an investigation or as may be required by law.
- .05 A Member of the Legislative Assembly and an employee who becomes privy to information under review or investigation by the disclosure entity must keep such information confidential and may only disclose information required by the disclosure entity, if authorized in writing by the disclosure entity, or as may be required by law.
- .06 The disclosure entity must complete an investigation and document the facts and any findings and recommendations in a confidential written report.

9. Report on Investigation

- .01 A report of the disclosure entity must be provided to the Speaker and the Clerk of the Legislative Assembly. If the Clerk of the Legislative Assembly is subject to an investigation by the disclosure entity, the report must only be provided to the Speaker.
- .02 If a report of the disclosure entity substantiates an allegation of wrongdoing, in whole or in part, the Clerk of the Legislative Assembly determines any corrective or disciplinary measures to be taken to address the findings. The Clerk of the Legislative Assembly must advise the Subcommittee on Administration and Operations of the Legislative Assembly Management Committee at the first opportunity of the outcome of the investigation and any measures taken as a result. If the investigation of the disclosure entity pertains to the Clerk of the Legislative Assembly, the responsibilities under this section fall to the Speaker.

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.03 Based on the findings of an investigation by the disclosure entity under this policy, the Clerk of the Legislative Assembly must decide whether recoveries or legal remedies will be pursued by the Legislative Assembly. If the employee subject to the investigation is the Clerk of the Legislative Assembly, this determination is made by the Speaker.

.04 The procedures established by the disclosure entity under section 7.01 may prescribe other courses of action following the conclusion of an investigation and assign actions following the conclusion of an investigation and substantiation of allegations, including engagement of the police or the Legislative Assembly's external auditor.

10. Annual Reporting

.01 The disclosure entity must provide to the Speaker and the Clerk of the Legislative Assembly an annual report that outlines the number of reports received, investigated, and closed under this policy. The annual report may include any relevant observations and recommendations pertaining to the administration of this policy. The Speaker may direct the report to be placed before the Subcommittee on Administration and Operations of the Legislative Assembly Management Committee.

Contact

Questions regarding this policy may be directed to the Office of the Clerk at OfficeoftheClerk@leg.bc.ca or the Ethics Officer.

References

Policy 3305 – Fraud Awareness, Prevention and Reporting
Policy 4005 – Employee Concern
Policy 4015 – Standards of Conduct
Policy 4020 – Respectful Workplace
Policy 5405 – Appropriate Use of Information Technology Resources
Respectful Workplace Policy

Approved and authorized by the Legislative Assembly Management Committee on May 7, 2024.

POLICY HISTORY

Version 1	May 7, 2024
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