



Province of Alberta

PUBLIC INTEREST DISCLOSURE
(WHISTLEBLOWER PROTECTION ACT)

**PUBLIC INTEREST DISCLOSURE
(WHISTLEBLOWER PROTECTION)
REGULATION**

Alberta Regulation 71/2013

With amendments up to and including Alberta Regulation 81/2019
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Office Consolidation

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(Consolidated up to 81/2019)

ALBERTA REGULATION 71/2013

**Public Interest Disclosure
(Whistleblower Protection) Act**

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Schedules

Definitions

1(1) In this Regulation, “Act” means the *Public Interest Disclosure (Whistleblower Protection) Act*.

(2) In this Regulation and the Act,

- (a) “chief officer” means a chief officer as defined in the Act, or designated under section 2(2) in respect of a public entity;
- (b) “employee” means an employee as defined in the Act and
 - (i) an individual employed by, or who has suffered a reprisal and is no longer employed by, a public entity designated under section 2(1), or
 - (ii) an individual who holds or who has held, has suffered a reprisal and no longer holds,
 - (A) an appointment as medical staff,
 - (B) an appointment as professional staff, or

- (C) privileges with a public entity designated in section 2 of Schedule 1;
- (c) “medical staff” means a physician appointed by a public entity designated in section 2 of Schedule 1 to admit, attend or treat, or who utilizes the resources of the public entity in respect of, patients;
- (d) “professional staff” means a health practitioner, other than a physician, who is regulated under a health profession statute and has been appointed by a public entity designated in section 2 of Schedule 1 to admit, attend or treat, or who utilizes the resources of the public entity in respect of, patients.

AR 71/2013 s1;15/2018

Designation of public entities and chief officers

2(1) For the purposes of section 2(1) of the Act, the following are designated as public entities to which the Act applies:

- (a) a Provincial corporation as defined in section 1(1)(r)(i) or (ii) of the *Financial Administration Act*;
- (b) an entity designated in Schedule 1.

(2) The chief officer for a public entity is

- (a) the individual designated in Schedule 2, or
- (b) if no individual has been so designated, the individual charged with the administration and operation of the public entity.

General review procedures

3(1) To assist employees in submitting a disclosure of wrongdoing that complies with section 13 of the Act, a disclosure of wrongdoing form may be provided

- (a) by a designated officer for the purposes of section 9 of the Act, or
- (b) by the Commissioner for the purposes of section 15.1 of the Act.

(2) To submit a complaint of reprisal referred to in section 25 of the Act an employee must use the form provided in Schedule 3.

(3) Without limiting the generality of section 5(2) of the Act, the procedures of a public entity for receiving and reviewing a

disclosure of wrongdoing must include a provision regarding the referral of a disclosure of wrongdoing to an alternate that the chief officer considers to be appropriate, if the designated officer is in conflict of interest with respect to the nature of the disclosure or a person involved.

(4) If the Commissioner determines that he or she has a conflict of interest other than as described in section 12 of the Act, with respect to the nature of a disclosure of wrongdoing or a complaint of reprisal or with respect to a person involved, the Commissioner may delegate or refer the disclosure of wrongdoing or a complaint of reprisal to an alternate that the Commissioner considers to be appropriate.

(5) If a delegation or referral referred to in subsection (3) or (4) occurs,

- (a) the alternate referred to in subsection (3) may exercise all the powers and shall perform all the duties of a designated officer concerning the disclosure of wrongdoing, and
- (b) the alternate referred to in subsection (4) may exercise all the powers and shall perform all the duties of the Commissioner concerning the disclosure of wrongdoing or complaint of reprisal.

(6) If more than one disclosure of wrongdoing or complaint of reprisal is received by a designated officer or the Commissioner in respect of the same matter, a single investigation may be conducted rather than a separate investigation with respect to each disclosure of wrongdoing or complaint of reprisal.

(7) The procedures for receiving and reviewing a disclosure of wrongdoing shall provide for their timely and expeditious management as follows:

- (a) a disclosure of wrongdoing must be acknowledged not more than 5 business days from the date on which the disclosure of wrongdoing is received;
- (b) not more than 20 business days from the date on which the disclosure of wrongdoing is received,
 - (i) a decision whether to investigate must be made, and
 - (ii) an employee who submitted a disclosure of wrongdoing to which the investigation relates must be notified of that decision;

- (c) an investigation must be concluded not more than 120 business days from the date on which the disclosure of wrongdoing is received.

(8) The procedures for receiving and reviewing a complaint of a reprisal shall provide for their timely and expeditious management as follows:

- (a) a complaint of a reprisal must be acknowledged not more than 5 business days from the date on which the complaint of a reprisal is received;
- (b) not more than 20 business days from the date on which the complaint of a reprisal is received,
 - (i) a decision whether to investigate must be made, and
 - (ii) an employee who submitted a complaint of a reprisal to which the investigation relates must be notified of that decision;
- (c) an investigation must be concluded not more than 120 business days from the date on which the complaint of a reprisal is received;
- (d) if the Commissioner finds that a reprisal has been taken, directed or counselled contrary to section 24 of the Act, subject to section 26(2) and (4) of the Act, the Commissioner's report on the investigation must be referred to the Board not more than 5 business days from the date on which the investigation is concluded.

AR 71/2013 s3;15/2018

Reporting

4(1) For the purposes of section 5(2)(i) of the Act, a designated officer must provide his or her investigation report to the chief officer, in writing, on or before the date identified in section 3(7)(c).

(1.1) For the purposes of section 15.1(5) of the Act, a designated officer must provide his or her investigation report to the Commissioner, in writing, on or before the date identified in section 3(7)(c).

(2) A Commissioner's report referred to in section 22 of the Act shall be provided to the chief officer and designated officer of the affected department, public entity or office of the Legislature within 120 business days from the date on which the disclosure of wrongdoing or complaint of reprisal is received.

AR 71/2013 s4;15/2018

Extension of time

5(1) A chief officer may extend a time limit referred to in section 3(7), (8), 4(1) or 4(1.1), provided that the overall time period for investigation and the provision of a report is not extended for more than 30 business days.

(2) A chief officer may, with the Commissioner’s permission, extend a time limit referred to in section 3(7), (8), 4(1) or 4(1.1) for a longer period that the Commissioner considers to be appropriate in the interest of a fair and efficient outcome, consistent with the purposes of the Act.

(3) The Commissioner may extend a time limit referred to in section 3(7) or 4(2) as the Commissioner considers to be appropriate in the interest of a fair and efficient outcome, consistent with the purposes of the Act.

(4) An extension by the Commissioner under subsection (2) or (3) may be made before or after the time period in question has expired.

(5) If a time period is extended under this section, the individual who submitted a disclosure of wrongdoing or complaint of reprisal must be promptly advised when he or she may expect the next procedural step to occur or be completed.

AR 71/2013 s5;15/2018

Notices and other communication

6 If the Act or this Regulation require a notice or any other communication to be provided, the requirement is validly discharged by communication in writing and sent by mail, transmitted by facsimile or transmitted by e-mail within the time limits established in accordance with the Act or this Regulation.

Limit on disclosure – quality assurance records

7(1) In this section, “quality assurance activity”, “quality assurance committee” and “quality assurance record” have the same meaning as “quality assurance activity”, “quality assurance committee” and “quality assurance record” in section 9 of the *Alberta Evidence Act*.

(2) For the purposes of section 28.1(1)(c) of the Act, nothing in the Act or this Regulation authorizes the disclosure of the following:

- (a) a quality assurance record, or
- (b) any other information, document or matter that arises from the quality assurance activities of a quality assurance committee.

(3) Subsection (2) does not apply to original medical and hospital records pertaining to a patient.

AR 71/2013 s7;15/2018

Exemption by Commissioner

8 The Commissioner may exercise the powers and perform the duties set out in section 31 of the Act if, in view of any one or more of the following factors, it would be inappropriate in the opinion of the Commissioner to apply the Act, a requirement of section 5, 7, 18.1, 22, 23 or 32 of the Act, or this Regulation to a person, class of persons, public entity, information, record or thing:

- (a) the small size or management structure of a public entity which is the subject of the disclosure of wrongdoing or complaint of reprisal;
- (b) the nature or content of the disclosure of wrongdoing or complaint of reprisal;
- (c) the persons involved in the disclosure of wrongdoing or complaint of reprisal.

AR 71/2013 s8;15/2018

9 Repealed AR 15/2018 s8.

Coming into force

10 This Regulation comes into force on the coming into force of the *Public Interest Disclosure (Whistleblower Protection) Act*.

Schedule 1

Public Entities

[Section 2(1)(b)]

Education sector

1 The following are designated as public entities in the education sector to which the Act applies:

- (a) the board under the *Education Act*;
- (b) the Francophone regional authority under the *Education Act*;
- (c) the person responsible for the operation of a private school registered under the *Education Act* that receives a

grant under the *Education Grants Regulation* (AR 120/2008);

- (d) the operator of a charter school established under the *Education Act*.

AR 71/2013 Sched 1;81/2019

Health sector

2 The following are designated as public entities in the health sector to which the Act applies:

- (a) for greater clarity, a regional health authority under the *Regional Health Authorities Act*;
- (b) the following subsidiary health corporations under the *Regional Health Authorities Act*:
 - (i) Calgary Laboratory Services Ltd.;
 - (ii) CapitalCare Group Inc.;
 - (iii) Carewest;
- (c) Covenant Health;
- (d) Lamont Health Care Centre.

Schedule 2

Chief Officers

[Section 2(2)]

Education sector

1 The following are prescribed as chief officers for public entities in the education sector:

- (a) the superintendent of the board under the *Education Act*;
- (b) the superintendent of the Francophone regional authority under the *Education Act*;
- (c) in respect of a private school registered and accredited under the *Education Act* that receives a grant under the *Education Grants Regulation* (AR 120/2008)
 - (i) the person responsible for the operation of the private school, or

- (ii) if the operator is incorporated or registered as a society under the *Societies Act*, the chair of the board of directors of the corporation or society;
- (d) the superintendent of a charter school established under the *Education Act*;
- (e) the president of a designated university, comprehensive community college or polytechnic institution;
- (f) the Chief Executive Officer of a corporation established under the *Alberta Research and Innovation Act*.

AR 71/2013 Sched 2;81/2019

Health sector

2 The following are prescribed as chief officers for public entities in the health sector:

- (a) the Chief Executive Officer of a regional health authority under the *Regional Health Authorities Act*;
- (b) the Chief Operating Officer of Calgary Laboratory Services Ltd.;
- (c) the Chief Executive Officer of CapitalCare Group Inc.;
- (d) the Executive Director of Carewest;
- (e) the Chief Executive Officer of Covenant Health;
- (f) the Executive Director of Lamont Health Care Centre.

AR 71/2013 Sched 2;10/2019

Schedule 3

Complaint of Reprisal Form

[Section 3(2)]

This form must be used to submit a complaint of a reprisal under the *Public Interest Disclosure (Whistleblower Protection) Act*. Please send this form directly to the Public Interest Commissioner at: _____ [contact info] _____.

Reprisal

24 No person shall take or direct, or counsel or direct a person to take or direct, any of the following measures against an employee because the employee has, in good faith, sought advice about making a disclosure, made a disclosure, cooperated in an investigation under this Act, declined

to participate in a wrongdoing or done anything in accordance with this Act:

- (a) a dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job, change of job location, reduction in wages, change in hours of work or reprimand;
(b) any measure, other than one mentioned in clause (a), that adversely affects the employee's employment or working conditions;
(c) a threat to take any of the measures mentioned in clause (a) or (b).

General Contact Information

Name Title
Mailing Address
City Province Postal Code
Telephone Work Home Cell/Other
Email (Optional)
Name of Employer

Information about the Reprisal

Please provide a description of the reprisal(s) or threat(s) that have occurred or are occurring. Be sure to include all relevant dates, locations and names of individuals involved. Please attach any available supporting documents.

Blank lines for providing details about the reprisal.

Declaration

I believe that all the information provided is true to the best of my knowledge. I acknowledge that knowingly making a false or misleading statement is an offence pursuant to the Act.

I do (Signature) (Current Date)



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