

TITLE

INVESTIGATIONS**SCOPE**

Provincial

DOCUMENT #

1163

APPROVAL LEVEL

Alberta Health Services Official Administrator

SPONSOR

Ethics & Compliance, Human Resources

INITIAL EFFECTIVE DATE

June 29, 2015

CATEGORY

Ethical Conduct

REVISED

Not applicable

NOTE: The first appearance of terms in bold in the body of this document (except titles) are defined terms – please refer to the Definitions section.

If you have any questions or comments regarding the information in this policy, please contact the Policy & Forms Department at policy@albertahealthservices.ca. The Policy & Forms website is the official source of current approved policies, procedures, and directives.

PURPOSE

To set out Alberta Health Services' ("AHS") commitment to investigating allegations of **improper activities** by **AHS personnel**.

To set out AHS' requirements and responsibilities under the *Public Interest Disclosure (Whistleblower Protection) Act* (Alberta) ("PIDA") for disclosing, investigating, and reporting incidents of **wrongdoing** and **reprisal**. For investigations pertaining to PIDA, the Investigations Pertaining to the Public Interest Disclosure (Whistleblower Protection) Act procedure (#1163-01) shall be used.

POLICY STATEMENT

AHS personnel are expected to act ethically and to uphold AHS' values. Allegations of improper activities are taken seriously and, when appropriate, will be investigated.

Investigations will be conducted in a timely and objective manner and in accordance with established processes and procedures that:

- a) adhere to the principles of just culture, due diligence, and procedural fairness;
- b) support AHS' values; and
- c) comply with requirements imposed by law, legislation, professional association/regulatory bodies, supporting AHS governance documents (e.g., bylaws, policies, procedures, Code of Conduct), Medical Staff Bylaws and Rules, Midwifery Staff Bylaws and Rules, and collective agreements.

Investigations will be conducted without regard to the length of service, position, title, or relationship to AHS of the individual(s) against whom an allegation has been made.

Failure to comply with the terms and conditions of this policy may result in disciplinary action up to and including termination of employment, appointment/privileges, contractual, or other relationships with AHS.

APPLICABILITY

This policy applies to all AHS personnel.

This policy applies to allegations of improper activities that require formal investigation processes, such as acts that are adverse to patient safety, acts of fraud, theft, misappropriation, unethical conduct, and workplace abuse and harassment. Less formal processes are available to resolve other matters, as appropriate. Investigations for matters under PIDA will be conducted in accordance with the AHS Safe Disclosure/Whistleblower policy (#1101) and the PIDA Disclosure Investigation procedure (#1163-01).

In the event of a conflict with this policy and the requirements in Medical Staff Bylaws and Rules, Midwifery Staff Bylaws and Rules, or a relevant collective agreement, the requirements of the relevant Bylaws, Rules or collective agreement prevail.

POLICY ELEMENTS

1. Requirements

- 1.1 Investigations are conducted by personnel from stakeholder departments. The composition of an investigation team is dependent on the nature of the allegation.
- 1.2 Allegations that are complex, or could potentially have a significant impact on AHS, are referred to the **Investigation Coordination Team ("ICT")** for assessment and support as appropriate.
- 1.3 As part of the investigation, and in accordance with applicable laws, legislation, and AHS policies, procedures, and directives, investigators have authority to:
 - a) access AHS-owned or operated premises and AHS records;
 - b) conduct and review surveillance; and/or
 - c) examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, equipment, or other storage facilities used for AHS-related activities on AHS-owned or operated facilities. The examination, copying, and/or removal does not require the consent of the individual who might use or have custody of the items or facilities.
- 1.4 AHS personnel are expected to cooperate fully with investigators.
- 1.5 Except as otherwise required by the Medical Staff Bylaws and Rules, the Midwifery Staff Bylaws and Rules, and any relevant collective agreement, at the conclusion of an investigation:
 - a) the person against whom an allegation was made will be notified, as appropriate and in accordance with applicable privacy legislation and

privacy policies, of the investigation's conclusions and of further actions, if any;

- b) the person making an allegation will be notified, as appropriate and in accordance with applicable privacy legislation and privacy policies, of the investigation's conclusions; and
- c) an allegation may be forwarded, as required or permitted by applicable law or legislation, to external agencies including, but not limited to the police, a professional body, and/or a government department.

- 1.6 AHS personnel found to have committed improper activities may be subject to disciplinary action up to and including termination of employment, appointment/privileges, contractual, or other relationship with AHS.

2. Investigation Timelines

- 2.1 All AHS investigations will be carried out in a timely manner which is consistent with the principles of due diligence, procedural fairness and the requirements of this policy.
- 2.2 In the event of a conflict between the timelines of the AHS Investigations policy (#1163) and the timelines of another applicable process, the shorter timeline shall be used.

3. Protection from Retaliation

- 3.1 AHS personnel reporting and/or participating in investigations in good faith are protected from retaliation in accordance with legislation and the AHS Safe Disclosure/Whistleblower (#1101) policy.
- 3.2 Allegations of retaliation may be reported to the AHS Chief Ethics & Compliance Officer and allegations of reprisal may be reported to the Alberta Public Interest Commissioner, where appropriate.
- 3.3 Acts of reprisal under PIDA shall be reported directly to the Public Interest Commissioner through the *Complaint of Reprisal Form*.
- 3.4 Any person found to have taken an act of retaliation in contravention of this and other AHS policies may be subject to disciplinary action up to and including termination of employment, appointment/privileges, contractual, or other relationship with AHS.

4. Confidentiality and Anonymity

- 4.1 Information collected during an investigation will be kept confidential to the extent possible, subject to applicable legislation and AHS policies and procedures. Unauthorized breaches of confidentiality of an investigation may be subject to disciplinary action up to and including termination of employment, appointment/privileges, contractual, or other relationship with AHS.

- 4.2 Follow-up contact will be conducted in a manner which maintains the confidentiality and anonymity of the discloser, where possible.
- 4.3 Investigation or other actions related to a disclosure may not be pursued where insufficient information prevents due process, or where the identity of the individual disclosing the improper activity cannot be confirmed and is required by law or policy in order to proceed.

DEFINITIONS

AHS personnel means anyone who provides care or services or who acts on behalf of AHS, which may include governing body members, AHS employees, AHS Medical Staff members (physicians, dentists, oral and maxillofacial surgeons and podiatrists), AHS Midwifery Staff members, other allied health professional with an AHS appointment and privileges, students, volunteers, researchers working with AHS or studying AHS staff or patients.

Disclosure means a report of wrongdoing or a complaint of reprisal under PIDA, or a disclosure of an improper activity or retaliation under this policy.

Improper activity means any alleged material, unethical, illegal and other improper activity including without limitation, disclosures of wrongdoing under PIDA, fraud, theft, violations of laws, violations of the AHS Code of Conduct, principles, policies or bylaws (including the Conflict of Interest Bylaw), and negligence of duty.

Investigation Coordination Team (“ICT”) means a multidisciplinary team that is responsible for the coordination and case management of complex, serious, or high risk investigations.

Reprisal (a subset of retaliation) under PIDA means taking or directing any of the following measures because a disclosure of wrongdoing has been made in good faith, advice has been sought about making a disclosure of wrongdoing, or because there has been co-operation in an investigation or declined participation in an act of wrongdoing. Reprisal includes but is not limited to:

- 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 (a) that adversely affects the employment or working terms or conditions of the employee, member of the medical staff, or member of the midwifery staff; or
- c) a threat to take any of the measures mentioned in (a) or (b).

Retaliation includes, but is in no way limited to, demotion, suspension, termination, harassment, or denial of service or benefits to AHS personnel that occurs as a result of reporting of an improper activity in good faith, participating in investigations of allegations of improper activity, in the absence of reasonable evidence. Retaliation includes Reprisal under PIDA.

Wrongdoing (a subset of improper activity) under PIDA means:

- a) a contravention of an Act, a regulation made pursuant to an Act, an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada;
- b) an act or omission that creates:
 - i. a substantial and specific danger to the life, health or safety of individuals other than a danger that is inherent in the performance of the duties or functions of an employee, or
 - ii. a substantial and specific danger to the environment;
- c) gross mismanagement of public funds or a public asset; and/or
- d) knowingly directing or counselling an individual to commit a wrongdoing mentioned in clauses (a) to (c).

REFERENCES

- AHS Just Culture Guiding Principles
- Alberta Health Services Bylaws, Policies, and Procedures
 - Ethics Framework
 - Code of Conduct
 - Conflict of Interest Bylaw
 - Medical Staff Bylaws
 - Medical Staff Rules
 - Midwifery Staff Bylaws
 - Midwifery Staff Rules
 - Collection, Access, Use, and Disclosure of Information (#1112)
 - Fraud, Theft, or Misappropriation Policy (#1164)
 - Investigations Pertaining to the Public Interest Disclosure (Whistleblower Protection) Act (“PIDA”) Procedure (#1163-01)
 - Safe Disclosure/Whistleblower (#1101)
 - [Safe Disclosure Policy Frequently Asked Questions](#)
 - Safe Disclosure/Whistleblower: Disclosure Decision Appeals Procedure (#1101-01)
 - Workplace Violence: Prevention and Response (#1115)
- Investigation Coordination Team Toolkit
- Investigation Coordination Team Framework and Escalation Matrix
- *Criminal Code* (Canada) and associated regulations
- *Freedom of Information and Protection of Privacy Act* (Alberta) and associated regulations
- *Health Information Act* (Alberta) and associated regulations
- *Public Interest Disclosure (Whistleblower Protection) Act* (Alberta) and associated regulations
 - [Alberta Public Interest Commissioner Website](#)
 - [Complaint of Reprisal Form](#)

VERSION HISTORY

Date	Action Taken
June 29, 2015	Initial approval/ effective
June 2018	Scheduled for Review