
BRIEFING NOTE

To: Board of Education

Prepared By: Dave Eberwein, Superintendent

Subject: Office of the Ombudsperson
Complaints Process

Date: October 5, 2023

Background

At the public Board meeting on Sept 20, 2023, the Superintendent provided the Board with an updated **Administrative Procedure 451 - SAFE DISCLOSURE OF COMPLAINTS RELATED TO STAFF INCLUDING MANAGEMENT**. This update included additional language reflecting recent legislative requirements within PIDA (Public Interest Disclosure Act) for school districts to include directions concerning complaints about the Superintendent. This new process involved the Office of the Ombudsperson (OOO). The Board requested further clarification on the following:

1. What is the process of initiating a complaint?
2. Who retains custody of the materials?
3. Would notice be provided to the Board?
4. Would the Superintendent be made aware of the complaint?

Results

Sufficient information to answer these questions was not available within the original documentation provided to the District about PIDA implementation. To acquire the necessary information, the Superintendent spoke with counsel at BCPSEA as well as a PIDA representative at the Office of the Ombudsperson. The OOO website was also used as a resource. The following is a summary of the Superintendent's findings.

1. What is the process of initiating a complaint?

The complainant has the option of referring their complaint about the Superintendent to the Board Chair or to the Office of the Ombudsperson (OOO). This is outlined in the revised AP451 with a hyperlink to the OOO webpage. Once received by the OOO, the office would review any referred complaint to determine if it falls within the parameters of Wrongdoing as outlined in PIDA. This definition is provided within AP451 and is reproduced here for your information:

"Wrongdoing" refers to:

- a. *a serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada;*
- b. *an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of an employee's duties or functions;*

- c. *a serious misuse of public funds or public assets;*
- d. *gross or systematic mismanagement;*
- e. *knowingly directing or counselling a person to commit any act or omission described in paragraphs (a) to (d) above.*

The Act prevents the Ombudsperson from investigating a report that is primarily about a dispute between an employee and their employer about the employee's employment. The OOO may also decline to investigate a complaint where there is not enough information to assess the report, or where the allegations are being investigated through another process.

Should the OOO determine that they will not investigate a complaint (i.e. they do not have jurisdiction, the complainant is not a current or former employee, the alleged Wrongdoing is not associated with the school district, or the allegations do not meet the threshold for Wrongdoing as defined in the Act) the OOO will provide the complainant with written reasons for their decision.

2. Who has custody of the materials?

If the complaint is received by the OOO, it is the OOO who retains materials related to the complaint. If the Board receives the complaint, and it is determined that it should be forwarded to the OOO, the Board may choose to keep a copy of the complaint for its files.

3. Would notice be provided to the Board?

If a complaint was sent directly to the OOO, and if the allegations met the threshold of Wrongdoing under the law, the Board Chair would be notified following the investigation. If the evidence supports a finding of Wrongdoing, the report would include any recommendations.

Not all allegations qualify as potential Wrongdoing. If the complaint does not meet the necessary threshold, the OOO would not send notification to the Board Chair.

4. Would the Superintendent be made aware of the complaint?

If the OOO determined that an investigation is warranted, the Superintendent would be contacted and provided with an opportunity to respond to the allegation.

Respectfully submitted,



Dave Eberwein
Superintendent of Schools

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