


Policy #	GA 106
Approved by:	Chris Whitaker
Approval Date:	December 12, 2019
Policy Holder Signature:	
Policy Holder:	President and CEO
Administrative Contact:	Vice President, Human Resources
Replaces Policy Dated:	May 26, 2015
Review Date:	5 Years from Approval Date

Protected Disclosure (Whistleblower) Policy

Purpose/ Rationale:

The Humber College Institute of Technology and Advanced Learning and the University of Guelph-Humber (hereafter referred to as “Humber” or “the College”) is committed to maintaining the highest standards of ethical conduct in all of its activities. The primary purpose of this policy is to aid in fostering and maintaining a culture of compliance and accountability and to communicate and reinforce desired workplace values and behaviours to every part of the College.

Employees, students and other members of the College community are often in the best position to observe ethical misconduct or abuse of public trust because of their proximity to day-to-day College operations. The College relies on these individuals to report such activities so that it may take prompt corrective action. This policy provides a mechanism to disclose Wrongdoing on the part of members of the College community without fear of Reprisal or threat of Reprisal and reflects the College’s commitment to accountability and ethical conduct.

This document is available in alternate accessible formats on request.

Scope:

The policy applies to all members of the College community. The Humber community includes all employees and students at Humber College; members of Humber’s Board of Governors; members of standing and ad hoc committees; contractors; service providers; and researchers.

This policy is not intended to replace policies and procedures which have been established to deal with discrimination or with workplace violence or harassment. Complaints of discrimination, workplace violence or harassment reported under this policy will be referred and dealt with under the appropriate Humber policy and procedure, or through regulatory channels, which may also provide protection against reprisals.

Finally, this policy does not cover individual complaints relating to appeals, complaints, grievances, or issues associated with matters such as but not limited to academic appeals, accessibility, copyright, intellectual property, individual health or safety, management of employee performance, or provisions in any collective agreement.

Definitions:

Discloser: a person making a disclosure of Wrongdoing.

Gross Mismanagement: 1) conduct motivated by bad faith or improper purpose, such as personal gain or an abuse of authority; or 2) conduct that, while not motivated by improper purpose, constitutes gross mismanagement. To assess whether particular conduct, while not motivated by bad faith or improper purpose, is gross mismanagement, the following list of non-exhaustive factors are considered:

- The seriousness of the conduct. For instance, mere errors will not constitute gross mismanagement, but an error that is serious and not debatable among reasonable people could.
- The frequency or systematic nature of the conduct. Patterns of conduct are more likely to constitute gross mismanagement than are isolated incidents.
- The College's interest. Gross mismanagement is more likely to exist if the conduct is something that would shock or concern a reasonable member of the College community.
- The impact on the organization and/or the program area. Gross mismanagement is more likely to exist if the conduct has significantly affected, or could significantly affect, the organization's ability to carry out its mandate, the organization's employees, clients or the public trust.
- The conduct of the manager. Gross mismanagement is more likely to exist if the conduct is reckless or willfully disregards established policies, practices and procedures.

Misappropriation: means the intentional, illegal use of the College property or funds for one's own use or other unauthorized purpose.

Misconduct: theft or fraud, deliberate falsification of records, deliberate damage to the College property, and other violations of the College's Codes of Conduct and Ethical behaviour and/or other College policies.

Protected Disclosure: any disclosure, which is not frivolous or vexatious, made by a Stakeholder concerning an actual or perceived Wrongdoing.

Reprisal: Retaliatory measures, taken as a result of Protected Disclosure, against a Stakeholder that include:

1. Dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job, change of a job's location, reduction in wages, change in hours of work or reprimand;
2. Any measure, other than mentioned in clause (1) above, that adversely affects the Disclosers employment or working conditions;
3. A threat to take any of the measures identified in (1) or (2) above;
4. Student disciplinary action or unjust academic treatment;
5. Suspension, expulsion or unjust denial of admission into a College program

Serious Misrepresentation: means to purposefully provide information that is false with the intent to deceive.

Stakeholder: includes Humber's Board of Governor's; all employees and students of the College; members of standing and ad hoc committees; contractors; service providers; and researchers.

Wrongdoing: action(s) by a member of the College community, including but not limited to:

- A criminal offense;
- Negligent, improper or gross mismanagement of any College or public funds;
- A serious, willful, and flagrant breach of federal, provincial or municipal statute or college practice, procedure or regulation; and/or
- Substantial and specific danger to the environment or public health and safety.

Policy:

1. Disclosure:

- 1.1. Humber is committed to providing an environment where members of the College community can confidentially disclose, in good faith and based on reasonable grounds that Wrongdoing has occurred or will occur.
- 1.2. It is vital to the College that all employees, students and other stakeholders disclose their knowledge or suspicion of Wrongdoing in the context of College activities in a timely manner. The College's ability to take prompt corrective action in these situations depends on such reporting.
- 1.3. All concerns should be forwarded by mail to the President (or designate) in a sealed envelope to: Office of the President, LRC 6150 - North Campus, 205 Humber College Blvd, Toronto, ON, M9W 5L7. The President's primary designate shall be the Vice President, Human Resources & Organizational Effectiveness. The President may appoint an alternate designate when required and the President or Designate may delegate tasks related to a disclosure to one or more appropriate members of the College's Senior Administration.
- 1.4. Protected Disclosures shall be made in writing and include as much detail as possible including dates, individuals/witnesses involved, and any supporting material/evidence that may be pertinent to the allegation.
- 1.5. If the Discloser wishes to remain anonymous, the written communication should clearly indicate this wish for anonymity. The investigation will attempt to protect the discloser's identity as much as possible. However, the interests of fairness may require that the discloser's identity be provided to one or more persons.
- 1.6. In the event that an internal solution is not available and depending on the nature of the complaint/disclosure, the matter may be referred to the appropriate government authority, ministry, law enforcement, commission, tribunal and/or legal process for resolution.

2. Protection of Disclosers:

- 2.1. A Discloser who, in good faith, has reasonable grounds to believe that another student or employee has committed Wrongdoing is encouraged to make a Protected Disclosure

in accordance with this policy. Such disclosures should, wherever possible, be made within 30 days of the Wrongdoing coming to the attention of the individual making the disclosure.

- 2.2. Every Stakeholder has a right to make a Protected Disclosure under this policy, to participate in an investigation under this policy without Reprisal or threat of Reprisal.
- 2.3. The College recognizes that making disclosures of Wrongdoing may be stressful, and encourages staff who wish to do so to contact the Employee Assistance Program, through which they can confidentially access external counseling services. Similarly, students involved in such cases are encourage to contact the Student Wellness Centre for support.
- 2.4. A Discloser who makes a disclosure under this policy, or cooperates in an investigation of a disclosure made under this policy, and is subsequently subject to Reprisal or threat of Reprisal, will report such acts of Reprisal to the President (or designate) for investigation. Investigations of Reprisal will be conducted in the same manner, and be guided by the same principles, as any other investigation conducted under this policy.

3. Investigations:

- 3.1. Upon receipt of a disclosure, the President (or designate) will undertake a review of the matter to complete an assessment of the nature and extent of the issue; establish substance; and determine appropriate investigative processes.
- 3.2. Protected Disclosures which are determined by the President (or designate) to be outside the scope of this policy will be referred to the appropriate College policy or procedure and/or the applicable collective agreement
- 3.3. If more than a year has passed since the occurrence of the circumstances disclosed an investigation will only occur if it reasonably appears to the President (or designate) that there are potentially continuing effects of the alleged Wrongdoing or the circumstances otherwise raise issues of overriding concern to the College.
- 3.4. A complaint made via a disclosure under this policy may be dismissed (or postponed) if at the time of filing a substantially similar complaint is currently under investigation or another legal or administrative proceedings is underway dealing with substantially the same matter until the pre-existing matter has concluded. .
- 3.5. The President (or designate) shall contact the Discloser within a reasonable time period following the preliminary review to advise if the investigation will proceed. Contact with the discloser following the preliminary review depends on the complexity of the matter.
- 3.6. Anonymous allegations will only be acted upon if the evidence collected during the preliminary investigation indicates the disclosure can be properly investigated and is in the public interest.
- 3.7. The President (or designate) will identify the lead investigator for all Protected Disclosures, with due concern for protection of individual rights, and will be guided by the principles of fairness, confidentiality and expeditiousness.

- 3.8. The investigator shall not have any personal or direct interest in the matter being investigated. A third party investigator may be used.
- 3.9. Upon completion of the investigation a formal report will be completed that will propose, where necessary, solutions to resolve the disclosed improper activities. These recommendations may include civil or criminal proceedings, if sufficient evidence is present. Disclosers do not receive a copy of the report.
- 3.10. The investigation will be formally closed. The President (or designate) will retain records of disclosures and reports for period of seven (7) years.

4. Bad Faith Disclosures:

- 4.1. Any person found to have made a frivolous or vexatious disclosure shall be subject to appropriate disciplinary action and possible legal action. Disclosures lacking reasonable or sufficient grounds, made in bad faith or made to annoy, harass or harm an individual are considered frivolous and vexatious.
- 4.2. Any Stakeholder found to have made a frivolous or vexatious disclosure may be subject to legal action.

5. Fair Treatment and Confidentiality:

- 5.1. All persons involved in allegations of Wrongdoing will be treated fairly and impartially regardless of their position or the length of their involvement with the College.
- 5.2. All Protected Disclosures made under this Policy and all investigations will be handled in a sensitive manner and treated as confidential to the extent permitted by law.
- 5.3. All participants in the investigation process are required to maintain the confidentiality of the process and any information shared as part of the investigation to the extent permitted by law.

6. Reporting:

- 6.1. The investigation of all allegations will be monitored on an ongoing basis by the President (or designate). A summary of all disclosures submitted will be maintained by the President (or designate) which will include the total number of disclosures received, the category of the complaint, and the status or outcome of the investigation.
- 6.2. A summary of all disclosures made under the policy will be provided on an annual basis to the Governance and HR Committee in the form contained in Appendix A to this policy.

7. Awareness of Policy:

- 7.1. This policy will be posted on the College website. The College community, including employees and students, will be made aware of the policy through internal communications and training.

8. Precedent:

- 8.1. The protection offered by this policy is in addition to, but does not replace or modify any individual rights guaranteed by law, contract or codes of professional ethics. Nothing in this Policy limits or amends the provisions of the collective agreements.

References

Code of Ethics In Ontario, the ***Public Service of Ontario Act, 2006*** provides similar protection to whistleblowers in Ontario's public sector. The whistleblowing protections of the Act are contained in part VI (sections 108 to 150) and are similar in scope and application to the federal ***Public Servants Disclosure Protection Act***.

The ***Public Service of Ontario Act*** prohibits employers fromreprising against a public servant who has made a protected disclosure or has, in good faith, cooperated in an investigation into a disclosure or an investigation commenced under the Act.

Humber College Code of Ethics

Humber College Human Rights Policy

Humber College Occupational Health and Safety Policy

Academic Employees Collective Agreement

Administrative Staff Terms and Conditions of Employment

Support Staff Collective Agreement

Appendices

Appendix A: Form of Summary Report Regarding Protected Disclosure

Appendix A – Form of Summary Report Regarding Protected Disclosure**Protected Disclosure (Whistleblower) Summary Report**

<u>Date of Disclosure</u>	<u>Theme of Concern</u>	<u>Investigation Complete</u>	<u>Outcome Summary</u>