



POLICY: Public Interest Disclosure (Whistleblower)		POLICY NUMBER: GA-3
		PREVIOUS/REPLACES: Public Interest Disclosure (Whistleblower)
APPROVED BY: Executive Council	EFFECTIVE DATE AS OF: December 17, 2020	PRIOR VERSIONS: December 19, 2018 September 28, 2018 June 14, 2016

1. Policy Statement:

The Manitoba Institute of Trades and Technology (to be referred to as MITT) is committed to maintaining the highest ethical standards in all of its activities, ensuring transparency and accountability. *The Public Interest Disclosure (Whistleblower Protection) Act* was passed into law to facilitate the disclosure and investigation of significant and serious matters in or relating to the public service that are potentially unlawful, dangerous to the public or injurious to the public interest and to protect persons who make those disclosures.

The purpose of this policy is to:

- a. Encourage any member of the MITT community to report a suspected Wrongdoing to the Institute;
- b. Establish a process to facilitate the reporting and investigating of a suspected Wrongdoing; and;
- c. Protect persons who make good faith reports from any form of reprisal.

This policy applies only to the disclosure of Wrongdoings as defined in the Act and is not intended to apply to other types of disclosures. It is not intended to act as a dispute resolution mechanism or to replace grievances and other administrative processes. The definition of a Wrongdoing under the Act and under this policy is as follows:

- a. an act or omission constituting an offence under an Act of the Legislature or the Parliament of Canada, or a regulation made under an Act (i.e., a law has been broken);
- 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 the duties or functions of an employee;
- c. gross mismanagement, including of public funds or a public asset;
- d. knowingly directing or counselling a person to commit a wrongdoing described in clauses (a) to (c).

Allegations of misconduct in research due to breaches of research related policies shall be addressed as described in the Integrity in Research Policy. However, if the misconduct is considered a Wrongdoing as defined above, it shall be dealt with in accordance with the Public Interest Disclosure (Whistleblower) Policy.



2. Scope:

This policy applies to all of the following:

- employees of MITT;
- students of MITT;
- Governing Board members of MITT;
- volunteers at MITT;
- contractors and service providers to MITT;
- members of the public with a real and substantial connection to MITT.

3. Procedure:

3.1 Designated Officer:

The President and CEO has designated the Vice-President, Business & Organizational Development as the Designated Officer of MITT.

3.2 Making a Disclosure:

- a. MITT is committed to providing an environment where a concern can be confidentially disclosed, in good faith and based on reasonable grounds that a Wrongdoing has occurred or will occur. If a Complainant reasonably believes that they have information that could show that a Wrongdoing has been committed or is about to be committed, the Complainant may make a disclosure to:

In the case of an employee;

- Employee's Manager or Supervisor;
- MITT Designated Officer; or
- Manitoba Ombudsman.

In the case of a student:

- Instructor/Dean, Academic Programs;
- MITT Designated Officer; or
- Manitoba Ombudsman.

In the case of any other party:

- Manitoba Ombudsman.



- b. The disclosure must be in writing and include at a minimum the following information if known:
- a description of the Wrongdoing;
 - the name of the person(s) alleged to have committed the Wrongdoing or about to commit the Wrongdoing;
 - the date of the Wrongdoing;
 - whether the Wrongdoing has already been disclosed and a response received.

Individuals are encouraged to include their names when submitting any disclosure that they may make. Concerns expressed anonymously will be considered at the discretion of the Designated Officer. In exercising this discretion, the Designated Officer may consider the seriousness of the issues(s) raised, the credibility of the concern, the prospect of being able to investigate the matter, and fairness to any individual mentioned in the complaint.

- c. If the disclosure involves personal or confidential information, the Complainant must take reasonable precautions to ensure that no more information is disclosed than is necessary to make the disclosure.
- d. Upon receipt, each disclosure will be marked to show the date of receipt.
- e. Each disclosure will be maintained in a separate file.
- f. A Supervisor, Manager Instructor or Dean who receives a disclosure from a Complainant must promptly refer the disclosure to MITT's Designated Officer who will immediately inform the President. The Designated Officer will arrange to have a private discussion with the Complainant as soon as is reasonable in the circumstances and normally within ten working days upon receipt of the disclosure. The Complainant will be advised that all information regarding their identity as a discloser will be protected to the fullest extent possible.
- g. If the disclosure pertains to the conduct of the Designated Officer it shall be reported to the President. If the disclosure relates to the President, it shall be referred to the Chair of the Governing Board.
- h. Alternatively, a disclosure may be made to the Manitoba Ombudsman in which case, provisions of the Act will apply. If the disclosure is made both to the Manitoba Ombudsman and to MITT, the Designated Officer may choose not to review and investigate the matter under this procedure, referring it instead to the Manitoba Ombudsman.



3.3 Confidentiality:

All disclosures will be treated as confidential and will be protected to the fullest extent possible. MITT will ensure compliance with *The Freedom of Information and Protection Act*. Paper files will be secured in a locked location where only the Designated Officer (and/or investigator) and their assistant have access to. Electronic files will be password protected with access limited to the Designated Officer (and/or investigator) and their assistant.

All persons involved in the investigation whether as a witness or retrieving information or documents must keep the nature of the investigation confidential and any information obtained as a result of the investigation confidential. This includes taking all reasonable steps to protect the identity of the Complainant, any witnesses, and the person alleged to be responsible for the Wrongdoing.

In a situation where the proceedings are heard in a civil court or before an administrative tribunal no person involved in the disclosure/investigative process at MITT will be required to produce any record, or disclose any information, that could reasonably be expected to reveal the identity of a person who has made a disclosure under this Act.

Any person breaching confidentiality may be subject to disciplinary action, up to and including termination of employment or expulsion of academic standing from MITT.

3.4 Protection of Complainants:

Any Complainant who makes a disclosure under this policy, or cooperates in an investigation made under this policy, and subsequently experiences or believes that they have experienced a reprisal as a result of the disclosure should document the details and immediately inform the Designated Officer. All allegations of reprisal will be investigated and if justified appropriate corrective steps will be taken. Any person engaging in acts of reprisal will be subject to disciplinary action up to and including termination of employment or expulsion of academic standing from MITT.

The Designated Officer must inform the Complainant that they may make a written complaint to the Ombudsman regarding the alleged reprisal. The Complainant may make a further complaint to the Manitoba Labour Board under certain circumstances.

3.5 Investigation:

- a. Investigations shall be conducted by the Designated Officer with appropriate assistance as required. The Designated Officer shall adhere to the following procedures and shall inform the President if an investigation is warranted.



- b. The Designated Officer will meet with the Complainant privately as soon as is reasonable in the circumstances and normally within ten working days of receiving the disclosure to acknowledge the receipt of the disclosure and explain the process. The Designated Officer will inform the Complainant that all information regarding their identity as a discloser will be protected to the fullest extent possible, and that they have the responsibility to protect information related to the disclosure and must protect the identity of the alleged wrongdoer.
- c. The Designated Officer will then determine if an investigation is warranted that meets the following criteria:
 - the disclosure has been made in good faith and is not frivolous;
 - the disclosure deals with Wrongdoings as specified in the Act;
 - the disclosure indicates reasonable grounds to believe that a Wrongdoing has occurred; and
 - the disclosure has not already been investigated under the Act, this policy, or any other means.
- d. The Designated Officer will make a determination on whether they may wish to consult with the President, the Ombudsman, or any other person that they may deem necessary to assist with the management of an investigation. The Designated Officer will also make a determination on whether it would be more appropriate for the Manitoba Ombudsman to investigate the disclosure.
- e. If the Designated Officer determines that there is a real, perceived or potential conflict of interest in handling the disclosure it will be forwarded to the President who will investigate the disclosure with appropriate assistance as required.
- f. In the event that the Designated Officer is directly involved in the subject matter of the disclosure, the disclosure shall be investigated by the President with appropriate assistance as required and will follow the same procedures as detailed below. If the disclosure involves the President, the Chair of the Governing Board shall lead the investigation with assistance and follow the same procedures as detailed below.
- g. All other investigations will be managed by the Designated Officer with appropriate assistance as required. Where necessary, the Designated Officer will interview individuals who may have knowledge of the suspected Wrongdoing. The Designated Officer may require an employee to produce any records in their possession or under their control that may be relevant to the investigation. Where the suspected Wrongdoing involves any of MITT's unionized employees, the unionized employee shall have the right to have a representative of their union present at the interview.
- h. Investigations will be conducted in accordance with the principles of procedural fairness and natural justice of all persons involved in the investigation including persons making the disclosure, witnesses and persons alleges to be responsible for the Wrongdoing.



- i. A disclosure must be reviewed promptly to determine if the matter disclosed represents a Wrongdoing and to determine the appropriate action to be taken. Every effort will be made to complete the review and investigation if required, in a timely manner but within **sixty** working days from the initial receipt of disclosure. The timeframe may be extended in instances where additional information is required.
- j. If during the course of the investigation, it is discovered that another Wrongdoing may have been committed, the Designated Officer may choose to expand the scope of the investigation.
- k. The Designated Officer will document the outcome of the investigation in the disclosure file and prepare a report. If the investigation results in a finding of Wrongdoing, the report will include any recommendations of corrective actions to be taken. If the investigation results in a finding that no Wrongdoing has occurred, the report will include reasons why no corrective action was recommended or taken.
- l. The Designated Officer will inform the Complainant, the alleged Wrongdoer, and the President of the outcome of the investigation. The Designated Officer must provide a copy of the report to the President.
- m. If the Designated Officer decides not to investigate a disclosure or stops investigating a disclosure, they must inform the Complainant of this decision and advise the Complainant that they may make a disclosure to the Ombudsman if so desired. They must also advise the President.

3.6 Withdrawal of a Disclosure:

If after making a disclosure, the Complainant wishes to withdraw the disclosure, the Complainant must provide a written request for withdrawal to the person to whom the initial disclosure was made.

In the event that a disclosure is withdrawn, the Designated Officer shall determine whether any action regarding the disclosure will be taken. Such action will be independent of these procedures, and will be determined on a case-by-case basis. The Designated Officer shall advise the President of any such instances.

3.7 Bad Faith Disclosures:

Any person found to have made a disclosure in bad faith or in breach of this policy and/or these procedures will be subject to appropriate disciplinary action and possible legal action.



3.8 Disciplinary Action

Individuals subject to disciplinary action under this policy will be administered under the following policies:

- MITT Staff – Progressive Discipline Policy, Code of Conduct & Staff Ethics
- Students – MITT Student Discipline Policy, Student Behaviour
- Governing Board Member – Code of Conduct
- Volunteers – Code of Conduct & Staff Ethics
- Contractors – Governed by a standard contract that includes a right of termination clause.

3.9 Annual Reporting:

The Designated Officer will annually prepare a report of any disclosures of Wrongdoings that have been made including a Nil report if there are no disclosures. The report must be signed off by the President. The report will include the following information:

- the number of disclosures received and the number acted on and not acted on;
- the number of investigations commenced as a result of a disclosure;
- in the case of an investigation that results in a finding of Wrongdoing, a description of the Wrongdoing and any recommendations or corrective actions taken in relation to the Wrongdoing or the reason why no corrective action was taken.

The report must be submitted annually to the Board and made available to the public on request.

3.10 Communication:

The President shall ensure that information regarding *The Public Interest Disclosure Act*, this policy, and disclosure procedures are widely communicated annually to all employees of MITT. The President shall supply this policy and procedures to the Ombudsman as requested.

4. Administration:

The Vice-President, Business & Organizational Development is responsible for ensuring that this policy is adhered to.

5. Review:

This policy will be reviewed every 5 years by Executive Council.



6. Reference:

Legislation:

The Public Interest Disclosure (Whistleblower Protection) Act & Regulation
The Freedom of Information and Protection of Privacy Act

Policies:

Governing Board Code of Conduct Policy
Code of Conduct & Staff Ethics
Integrity in Research Policy
Progressive Discipline
Student Behaviour
Student Discipline Policy

7. Definitions:

7.1 The Act – *The Public Interest Disclosure (Whistleblower Protection) Act*

7.2 Complainant – a person making a disclosure of Wrongdoing.

7.3 Reprisal means,

- a. In the case of **employees**, any of the following measure taken against an employee because the employee has, in good faith, sought advice about making a disclosure, made a disclosure, or co-operated in an investigation under this Act:
 - i. a disciplinary measure;
 - ii. a demotion;
 - iii. termination of employment;
 - iv. any measure that adversely affects his or her employment or working conditions;
 - v. a threat to take any of the measures referred to in clauses (i) to (iv).
- b. In the case of **students**, any student discipline, academic penalties, or any measure that adversely affects the student's educational experience;
- c. In the case of **Governing Board Members**, the removal from the Board, or any measure that adversely affect the ability of the Board Member to fully participate in the Governing Board.
- d. In the case of **volunteers**, any measure that adversely affect the volunteer's experience, or deems them ineligible for future volunteer opportunities;
- e. In the case of **contractors**, termination of contract, withholding payments, or deeming them ineligible for future contract opportunities;
- f. In the case of **members of the public**, any measure which adversely affect their ability to engage with MITT or become a member of the MITT community.