

<b>Policy Title:</b>	Whistleblower Policy
<b>Policy ID:</b>	#3-347 ( <i>Replaces #4-428</i> )
<b>Manual Classification:</b>	Section 3 – Organizational Effectiveness and Human Resources (OEHR)
<b>Approved by Board of Governors:</b>	Board of Governors
<b>Effective Date:</b>	April 1, 2023
<b>Next Policy Review Date:</b>	February 1, 2026
<b>Contacts for Policy Interpretation:</b>	Vice President, Organizational Effectiveness and Human Resources

## **1.0 - Policy Overview**

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Every member of the Fleming College community has the right to Disclose in Good Faith an Improper Activity/Wrongdoing (as defined by this policy) by other College Community members without concern of retaliation or reprisal.

This Policy and its linked Procedure do not apply to individual concerns or complaints such as but not limited to: appeals; student or employee conduct or harassment; discrimination; accessibility; copyright; intellectual property; individual health and safety; management or employee performance; grievances; or provisions contained in collective agreements or legislation, where other resolution processes exist. In such cases, members of the Fleming College community should utilize other available resolution processes to have any concerns or issues addressed.

Fleming College is committed to accountable and transparent operations, and to creating an inclusive, collaborative working and learning environment. In alignment with the College's commitment to equity, diversity, and inclusion, all College policies and procedures are developed and reviewed through equitable and Indigenous perspectives.

## **2.0 - Purpose**

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The purpose of this policy is to ensure that College operations are conducted ethically and with integrity, consistent with all legal statutes and professional requirements established by both Fleming College's By-Law No.1, and by public policy:

- a) the Ontario Colleges of Applied Arts and Technology Act (2002), Ontario Regulation 34/03
- b) the Minister of Colleges and Universities Binding Policy Directive 1.0, Governance and Accountability Framework (2010), and Conflict of Interest (2003)
- c) Ontario's Occupational Health and Safety Act (1990), and

d) The Not-for-Profit Corporation Act 2010

This policy confirms the rights of any member(s) of the College Community to make a Disclosure about Improper Activity/Wrongdoing by any member(s) of the College Community. This policy encourages its members to do so without fear of retaliation while protecting the rights of the Subject(s) about whom Disclosures may be made.

### **3.0 - Definitions and Acronyms**

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The following definitions and/or acronyms apply in this policy:

**Bad Faith** For the purposes of this Policy, Bad Faith is defined as submission of facts that is determined by a Recipient or Investigator at any time to have been knowingly made as inaccurate, vexatious, baseless, unfounded, or false at the time a Disclosure is submitted.

**College** Sir Sandford Fleming College of Applied Arts and Technology as a legal entity.

**College Community** Any person who studies, teaches, conducts research at or works at, or under, the auspices of the College and includes without limitation, employees; contractors; appointees (including volunteer board members); students; visitors; and any other person while they are acting on behalf of, or at the request of the College.

**Discloser** Any College Community member who has submitted a Disclosure about an Improper Activity/Wrongdoing.

**Good Faith** An honest and sincere belief or motive without any malice or the desire to cause harm to others. For the purposes of this Policy Good Faith applies to the submission of a legitimate Disclosure that is factually accurate.

**Improper Activity/ Wrongdoing** Any Activity related to the College that is: a criminal offense; in violation of federal, provincial, or municipal laws or regulations; is a serious violation of College Policy; negligent, improper, or gross mismanagement of College or public resources; substantial or specific danger to public health and safety.

**Investigator** The person or persons investigating Improper Activity/Wrongdoing alleged in a Disclosure to the Recipient. The Investigator may also be the Recipient.

**Recipient** The party receiving a Disclosure including the College President or designate, or the Vice President, Organizational Effectiveness and Human Resources in the event of a Disclosure directly involving the Office of the President.

**Respondent** The member or members of the College Community alleged to be engaged in Improper Activity/Wrongdoing.

**Retaliation** Any adverse action by the College, including disciplinary action, dismissal, any other negative treatment or the threat to do any of the foregoing, against an individual who has submitted a Disclosure pursuant to this Policy.

**Subject** The individual about whom a Disclosure has been reported.

**Whistleblowing, Disclosure or Disclose** The reporting of information that is evidence of Improper Activity/Wrongdoing in an honest and responsible manner in accordance with this Policy. These terms are blanket references to the submission of any formal Disclosure regarding a suspected Improper Activity/Wrongdoing under this Policy and associated Procedure.

#### **4.0 - Scope**

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This Policy applies to the College and all employees, students, and members of the Fleming College Community, regardless of their position, past performance, or length of service. This Policy does not apply to individual situations where other resolution processes exist.

#### **5.0 - General Principles**

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##### **5.1 - Overview**

- a) If any member of the College Community becomes directly aware *or* has reason to believe that another member(s) of the College Community is/are engaged in Improper Activity/Wrongdoing that is not addressed by another College policy and/or an external mechanism, they may file a Disclosure (verbal or written) with the President's Office.
- b) If it is the College President or a member of the President's Office that is the Subject of a Disclosure, it should instead be reported to the Vice President, Organizational Effectiveness and Human Resources (OEHR).
- c) The Recipient of the Disclosure shall investigate and resolve the matter.
- d) Depending on the nature of the issue that is being Disclosed, the Recipient may refer the matter externally to an appropriate agency, commission, tribunal and/or other entity for resolution that is reflective of the nature of the complaint. The decision to escalate a Disclosure to an external agency will follow consultation with Fleming College President, who may also call on Senior Management Team members and/or external experts such as legal counsel for consultation and advice.
- e) Any and all information related to a Disclosure to which any individual is provided access up to and including members of the Board of Governors must be considered confidential College information and protected as such. Information related to a Disclosure includes any paper-based records, electronic records, and

any information obtained verbally regarding any aspect of a Disclosure under the Whistleblower Policy and/or Procedure.

- f) All records, reports, and documentation in all formats, including recorded video sessions, related to a Disclosure shall be safeguarded at all times by all involved parties to ensure confidentiality. This includes but is not limited to documentation regarding the initial Disclosure report, investigation records, outcome, resolution, and next steps.
- g) The College shall respect the confidentiality of all persons involved in a Disclosure to the fullest reasonable extent within the context of the situation, in alignment with [Policy 1-111 Access to Information and Protection of Privacy](#).

## **5.2- Protection from Retaliation**

- a) Any Discloser who files a Disclosure pursuant to this policy in Good Faith and does not knowingly provide false or materially inaccurate information shall be protected from Retaliation from the College or any member of the College Community.
- b) No information regarding a Disclosure, a Discloser or a Subject shall be provided to any external agency or body about a Disclosure that is submitted to the College in Good Faith.
- c) Allegations of Retaliation reported by the Discloser, or another party will also be investigated. Any member of the College Community found to be responsible for Retaliation in any form in response to a Disclosure shall be subject to disciplinary action up to and including termination of employment, expulsion, or other equivalent measure.

## **5.3 - Disclosures Made in Bad Faith**

If at any time during an investigation, the Investigator determines that the Discloser's report is intentionally misleading, contains false or materially inaccurate information known by the Discloser at the time of Disclosure, or is found otherwise to be a knowingly unfounded claim when it was disclosed, the investigation will be considered resolved.

The investigator may recommend disciplinary measures against the Discloser in alignment with directives within College Policies, Collective Agreements to which the College is subject including up to and including termination of employment, expulsion, or other equivalent measures

## **5.4- Reports**

All Disclosures that have been validated by investigation as substantiated will be reported to the Board of Governors, in alignment with OP #3-347.

## 6.0 - Related Documents

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- Fleming College By-Law No. 1
- *Ontario Colleges of Applied Arts and Technology Act (2002), Ontario Regulation 34/03*
- Minister of Colleges and Universities Binding Policy Directive 1.0, Governance and Accountability Framework (2010), and Conflict of Interest (2003)
- *Ontario's Occupational Health and Safety Act (1990), and*
- *The Not-for-Profit Corporation Act 2010 (as enforced 2021)*
- College Policy Conflict of Interest #3-344
- College OP #3-347 Whistleblower

## 7.0 - History of Amendments/Reviews

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June 2016	Approved by Board of Governors
January 2023	Review and Revisions Approved by Board of Governors