



<b>Procedure Title:</b>	Whistleblower Procedure
<b>Procedure ID:</b>	#OP 3-347 ( <i>Replaces #OP4-428</i> )
<b>Manual Classification:</b>	Section 3 – Organizational Effectiveness & Human Resources (OEHR)
<b>Linked to Policy:</b>	# 3-347 Whistleblower Policy
<b>Approved by Senior Management Team:</b>	April 2023
<b>Effective Date:</b>	April 1, 2023
<b>Next Review Date:</b>	February 1, 2026
<b>Contacts for Procedure Interpretation:</b>	Vice President, Organizational Effectiveness and Human Resources

## **1.0 – Purpose**

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This Procedure provides detailed steps and considerations to inform the submission of a Disclosure in Good Faith by any member of the Fleming College Community about Improper Activity/Wrongdoing by another College Community member(s), and to do so without concern of Retaliation.

Terms not defined in this Procedure have the same meaning as found in the College’s Whistleblower Policy.

## **2.0– Procedure**

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Every member of the Fleming College community has the right to Disclose an Improper Activity/Wrongdoing by other College Community members as defined by this Policy in Good Faith without concern of Retaliation.

All actions outlined in subsection “*2.1 – Reporting a Disclosure*” apply where that the Disclosure is *not* being done anonymously. Considerations regarding Anonymous Disclosures are addressed in *subsection “2.2 – Anonymous Disclosure”* of this Procedure.

### **2.1 - Reporting a Disclosure**

- a) Disclosures shall be submitted either verbally or in writing, within thirty (30) days of discovering the activity to the appropriate Recipient identified in paragraph c) and d) of this subsection (*2.1 – Reporting a Disclosure*).
- b) Complaints of incidents more than 30 days following the most recent incident will be dealt with under the Policy only after the College assesses whether the passage of time negatively impacts procedural fairness.

- c) The College may extend timelines under exceptional circumstances at the discretion of the Investigator or senior leadership, including the President and/or Chair of the Board of Governors.
- d) Where the subject of the Disclosure *is not* the President or a member of the President's Office, the Disclosure shall be made directly to the President's office (or designate). Disclosures to the President's Office may be made in the following ways:
- In writing, submitted either by mail or hand-delivered to the school via sealed envelope. Disclosures made in writing can be mailed to the Office of the President as follows:  
Attn: President, Fleming College  
599 Brealey Drive  
Peterborough, ON K9J 7B1
  - By email via [whistleblowing@flemingcollege.ca](mailto:whistleblowing@flemingcollege.ca)
  - Verbally in person, via telephone or web conferencing system. In cases where a verbal Disclosure is made, the complaint must be still documented to avoid any risk of subsequent misinterpretation and ensure clarity regarding the nature and scope of the Disclosure. This can be accomplished either by submitting a written statement in conjunction with a verbal report, or through videoconferencing technology where the session is recorded.
- e) Where the Subject of the Disclosure *is* the President or a member of the President's Office, then the Disclosure shall be made to the Vice President, Organizational Effectiveness and Human Resources (OEHR). The Disclosure should be made directly to the VP, in one of the following ways:
- In writing, submitted either by mail or hand-delivered to the school via sealed envelope. Disclosures made in writing can be mailed to the VP in the following ways:  
Attn: Vice President, Organizational Effectiveness and Human Resources  
c/o Fleming College  
599 Brealey Drive  
Peterborough, ON K9J 7B1
  - By email via [whistleblowing@flemingcollege.ca](mailto:whistleblowing@flemingcollege.ca)
  - Verbally in person, via telephone or web conferencing system. Note that in cases where a verbal Disclosure is made, the complaint must be still documented to avoid any risk of subsequent misinterpretation and ensure clarity regarding the nature and scope of the Disclosure. This will be accomplished either by submitting a written statement in conjunction with a verbal report, or through videoconferencing technology where the session is recorded.
- f) The Disclosure shall include the following with as much relevant detail as possible:

- specific incidents, acts or decisions believed to constitute Improper Activity
  - the circumstances surrounding the Improper Activity, including relevant dates, times, and locations of the activity
  - the individual(s) involved in and/or responsible for the Activity, and
  - the rationale for invoking the Whistleblower process
  - The Discloser's name and contact information
- g)** Where a Disclosure is being made in writing, and the Discloser wishes to verbally discuss it with the Recipient, the Discloser shall clearly indicate this wish as part of their written Disclosure and include a telephone number or other contact information if required.

## **2.2– Anonymous Disclosures**

- a)** Anonymous Disclosures will only be accepted in writing, and the written Disclosure must indicate the Discloser's wishes for the Disclosure to be submitted anonymously.
- b)** Anonymous Disclosures shall be reviewed and actioned in the same manner as standard Disclosures.

## **2.3– Assessment and Investigation**

- a)** The Recipient shall acknowledge receipt of the Disclosure with the Discloser in writing within five (5) business days, when the Discloser's identify is known.
- b)** The Recipient or designate will conduct a preliminary review of the report, including any discussions to clarify or validate the Disclosure with the Discloser, within seven (7) business days of receipt to determine a reasonable course of action with consideration given to:
- Should the Whistleblower Policy be invoked, based on whether the Discloser appropriately pursued any other applicable options to address the issue, including College policies, and
  - Whether sufficient detail was provided in the Disclosure to proceed with an investigation
- c)** If, in the Recipient's sole opinion, the Disclosure warrants investigation, the Recipient shall investigate the report and may, at their discretion engage other designates and/or external resources to assist.
- d)** The investigation will be undertaken in such a manner that is appropriate for, and reflective of the circumstances. This should include activities such as:
- Speaking with the Discloser,
  - Notification of the Subject/Respondent(s) about the allegations against them
  - Follow up with the Discloser when needed for clarification and / or confirmation of allegations
  - Inviting the Subject / Respondent(s) to respond to the allegations

- Consultation with other senior leadership at the College or external resources where appropriate,
  - Obtaining and reviewing relevant documentation, and
  - Pursuing any other activities deemed necessary to investigate the report fairly and thoroughly.
- e) All investigations shall be conducted in a manner consistent with this Procedure and its corresponding Policy, all other College Policies and Procedures, collective bargaining agreements, and relevant legislation.
- f) Investigations shall be conducted in a fair, impartial, confidential, and timely manner.
- g) Where more than one (1) Disclosure is received regarding the same Improper Activity/Wrongdoing, and these Disclosures warrant investigation, a single investigation may be conducted rather than multiple separate investigations.
- h) A Disclosure will be investigated using the Procedural Fairness method which consists of four (4) principles:
- Being fair in process
  - Being transparent in actions
  - Providing opportunity for voice, and
  - Being impartial in decision making
- i) A disclosure investigation's outcome will be substantiated by a balance of probabilities, meaning that which was most likely of the events related to the allegations to have occurred, did occur.
- j) Upon the timely completion of an investigation, the Investigator shall complete a written report for the President's Office when appropriate. In cases where the Subject is the President's Office or the President, that report shall instead be submitted to the Vice President, Organizational Effectiveness and Human Resources. In either case, the reports shall include the following:
- the nature of the matter,
  - details regarding how the investigation was conducted,
  - the findings of the investigation and the evidence on which those findings are based, and
  - the recommended next steps regarding the matter up to and including resolution.
- k) The Discloser shall not receive a copy of the Investigator's report.
- l) Where an investigation substantiates an allegation of Improper Activity/Wrongdoing that violates applicable College codes, policies and/or Procedures; collective bargaining agreements; and/or legislative requirements, the Recipient shall:

- Determine any steps required to address the impact of, and remedy harm resulting from the Improper Activity/Wrongdoing to the College using appropriate measures and means
- Recommend and/or implement preventative Procedures
- Discipline wrongdoers,
- Inform the Discloser in writing of the findings of the investigation and any actions taken pursuant to those findings within the limitations of College Policies and collective agreements to which the College is subject
- Notify the Subject(s) and/or Respondent(s) in writing of the findings and, when applicable provide requisite next steps to address the findings and result of the Disclosure.
- Any matter where the investigation indicates that criminal activity may have occurred will be referred to the appropriate authorities for further action in alignment with College Operating [Procedure OP #1-111D Use and Disclosure of Personal Information](#), for notification of authorities.

**m)** Where an investigation does not substantiate an allegation of Improper Activity/Wrongdoing as presented in the Disclosure, the Recipient shall inform the Discloser in writing of the result of the Disclosure.

This communication will be limited to confirming that no wrongdoing was found to have occurred relative to the disclosure, and no personal details or anecdotal details about the events that led to the Disclosure will be addressed. This approach to conveying the disposition of the Disclosure must ensure the privacy of the Subjects/Respondents within the limitations of College Policies, collective agreements to which the College is subject, and all applicable laws

**n)** If, at any time during an investigation, it is determined that the Disclosure is made in Bad Faith, or knowingly contains false or materially inaccurate information, the Investigator shall immediately terminate the investigation and notify the Discloser in writing of the termination and the reasons for the termination of the investigation. A final report including the investigation findings will be prepared to document this decision and the supporting evidence for the decision.

Additionally, disciplinary actions may be taken 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

**o)** Where an internal solution is not satisfactory or appropriate, the matter may be referred externally to the appropriate agency, commission, tribunal and/or other entity for resolution that is reflective of the nature of the complaint. In these cases, the escalation will be documented to include the agency to which it was referred, the rationale for the escalation, and all other pertinent details regarding the escalation where applicable.

**p)** At the conclusion and documentation of the foregoing, the investigation is

formally closed.

### **3.0 – Records**

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- a) The College collects personal information under authority of the *Ontario Colleges of Applied Arts and Technology Act S.O. 2002, c. 8, Sched. F*, and in accordance with the provisions of the *Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c.F.31. (FIPPA)*.
- b) All records and information in all formats that are related to a Disclosure, any ensuing investigation, and resolution shall be safeguarded at all times by all involved parties to ensure confidentiality. This includes paper and electronic records, and any verbal discussions regarding any aspect of a Disclosure under the Whistleblower Policy and/or Procedure.
- c) Understanding that a Disclosure can be subject to Freedom of Information requests, the confidentiality of all persons involved in a Disclosure will be strictly maintained. The College respects and will maintain the confidentiality of all persons, including the Discloser, Respondent, Investigator, Subject, witnesses, and any other parties directly involved. The College will do this by restricting access to information for individuals without a need for such access. **Note** that confidentiality cannot be assured in the following circumstances:
  - An individual is at imminent risk of self-harm;
  - An individual is at imminent risk of harming another;
  - There is a concern about the safety or welfare of a child or vulnerable person;
  - There are reasonable grounds to believe that others in the College or wider community may be at risk of harm;
  - Disclosure is required to comply with a specific legal obligation to make a report to a third party or otherwise required by law.
- d) The College shall retain the records in accordance with the College's document retention Policy and all applicable legislation

### **4.0 – 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)*,
- *The Not-for-Profit Corporation Act 2010*
- College Policy #3-347, Whistleblower (Formerly 4-428)
- College Policy Conflict of Interest #3-344

- College Operating Procedure OP #1-111C Use and Disclosure of Personal Information

## **5.0 – History of Amendments & Reviews**

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Jun 22, 2016	Approved by Board of Governors
Nov 10, 2020	Revisions approved by SMT
Jan 2023	Revisions Approved by Board of Governors