

Administrative	Policy Manual
Code: AU Hur	nan Resources

AU0150 - Public Interest Disclosure Act

Interior Health would like to recognize and acknowledge the traditional, ancestral, and unceded territories of the Dākelh Dené, Ktunaxa, Nlaka'pamux, Secwépemc, St'át'imc, Syilx, and Tŝilhqot'in Nations, where we live, learn, collaborate and work together.

Interior Health recognizes that diversity in the workplace shapes values, attitudes, expectations, perception of self and others and in turn impacts behaviors in the workplace. The dimensions of a diverse workplace includes the protected characteristics under the human rights code of: race, color, ancestry, place of origin, political belief, religion, marital status, family status, physical disability, mental disability, sex, sexual orientation, gender identity or expression, age, criminal or summary conviction unrelated to employment.

1.0 PURPOSE

Interior Health (IH) is a public body with obligations under the *Public Interest Disclosure Act (PIDA)* to develop procedures and protections for current and former Employees and Health Professionals who wish to disclose (report) serious Wrongdoing occurring within IH. This Policy forms part of IH's commitment to supporting a speak-up culture and aligns with AV3000 Psychological Health and Safety in the Workplace.

This Policy explains:

- IH's obligations under PIDA;
- The meaning of Wrongdoing under PIDA;
- The options available to Employees and Health Professionals who would like to disclose Wrongdoing;
- The roles and responsibilities in supporting Employees and Health Professionals to safely speak-up about a Wrongdoing; and
- The summarized procedures in IH's PIDA process. More detailed information can be found in IH's Public Interest Disclosure Act Procedure Guide.

2.0 **DEFINITIONS**

TERM	DEFINITION
Advice	Guidance that may be requested by the Employee or Health Professional in making a disclosure or a complaint about a Reprisal under this Policy or <i>PIDA</i> .
Designated Officer	One or more senior official(s) designated by the President & Chief Executive Officer for providing <i>Advice</i> , receiving and investigating disclosures under <i>PIDA</i> .

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Disclosure	A report of an act as outlined in <i>PIDA</i> .
Employee	A person employed by Interior Health in a full-time, part-time, casual, and/or term-specific unionized or non-contract position. Includes employed health professionals, management, leadership, IH Directors and Officers.
Health Professional	A member of a regulated profession under the <i>Health Professions Act</i> (RSBC 1996, c. 183) that either (a) receives training at or through IH; or (b) provides services at or on behalf of IH through any physical or virtual health authority-runsite, regardless of the nature of their working relationship with the health authority. For the purpose of this policy, examples of regulated health professionals include, but are not limited to: nurses, dieticians, occupational therapists, physical therapists, psychologists, pharmacists, as well as physicians, midwives, nurse practitioners and dentists.
Ombudsperson	BC Office of the Ombudsperson that is responsible under <i>PIDA</i> to provide Advice and investigate allegations of Wrongdoing from public sector employees.
Personal Information	Any information which may be associated with or identifies an individual except business contact information.
	Personally identifiable information includes things such as a person's name, social insurance number, account number, health care number, employment history or medical information.
	References to "personal information" within this Policy apply to any documents or records (whether in hard copy or electronic form) on which personal information is recorded and all verbal comments or conversations in which personal information is mentioned or discussed.
Protected Acts	Acts where protection under <i>PIDA</i> from reprisal is available including seeking Advice about making a disclosure, making a disclosure, or co-operating with a <i>PIDA</i> investigation.
Public Interest Immunity	The legal doctrine that applies to information that should not disclosed because it would be detrimental to the public interest or the government's ability to perform its responsibilities.
Reprisal	The imposition of, and any threat of action that adversely affects employment or working condition of an Employee or Health Professional because they sought Advice, made a Disclosure, made a complaint about a Reprisal or participated in an Investigation. Includes imposition/threat of termination, suspension and demotion, as well as subtler measures that negatively impacts employment or working conditions like

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	bullying, ostracizing or a workplace transfer or the threat to do any of these. Defined in section 31(1) of <i>PIDA</i> .
Respondent	A person against whom the allegation is being made or who was found to have committed Wrongdoing.
Safe Reporting	IH Board policy which is accessible by all persons associated with IH who could be adversely affected, through potential retaliation, should they report allegations of Wrongdoing. Although Employees and Health Professionals can access Safe Reporting, this Policy offers additional protections to Employees and Health Professionals under <i>PIDA</i> .
Solicitor-Client Privilege	Confidential communication between a lawyer and their client for the purpose of seeking legal advice.
Supervisor	Includes an Employee's or Health Professional's direct management or Department Head. For Board Directors, the Board Chair or the President & Chief Executive Officer supervises.
Wrongdoing	Behaviour that is a danger to health and safety; undermines the quality of care; is unlawful or unethical; and/or is against organizational policy, contracts, or other obligatory standards (defined in section 7(1) of PIDA). This Policy and PIDA applies to the following Wrongdoings, including Wrongdoings that occurred before the coming into force of PIDA: • a serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada; • 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 or Health Professional's duties or functions; • a serious misuse of public funds or public assets; • gross or systemic mismanagement; and/or • knowingly directing or counselling a person to commit a Wrongdoing.
Urgent Risk	A Wrongdoing which poses an imminent risk of substantial and specific danger to the life, health or safety of persons, or to the environment.

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3.0 POLICY

IH is committed to honesty, integrity, and accountability in its operations, programs, and services and promoting a culture of openness and transparency.

IH takes seriously all reports of Wrongdoing and appreciates the courage of Employees and Health Professionals who come forward to identify serious circumstances that compromise the integrity of IH and the safety of Employees, Health Professionals and clients/patients.

IH will ensure that Employees or Health Professionals who seek Advice and/or provide Disclosures under *PIDA* are supported and protected from Reprisal. All Disclosures received are to be investigated in a fair and timely manner. Any Wrongdoings identified will be addressed.

For detailed *PIDA* Disclosure, assessment, investigation and reporting procedures refer to the *Public Interest Disclosure Act Procedure Guide* which is considered integral to this policy.

3.1 Scope & Exclusions

This policy applies to:

- All current and former IH Employees and Health Professionals, including the Senior Executive Team and IH Board of Directors, who wish to disclose serious Wrongdoing;
- All IH operations, programs, and services; and
- All Wrongdoing occurring in relations to IH programs delivered through contracted service providers where there is a substantial connection between the Wrongdoing and IH.

Notall misconduct is Wrongdoing. *PIDA* applies to gross mismanagement of IH funding, services or people in a way that is highly inappropriate, irresponsible, or reckless. Systemic management means mismanagement that is broad, longstanding, recurrent, or inherent to IH culture and practices. For more information on the meaning of Wrongdoing, see the <u>Ombudsperson DO Toolkit</u> (pg 29-30).

Reporting under *PIDA* is optional; however, in some circumstances an Employee or Health Professional may be required to report the Wrongdoing

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under a different policy or law. Matters that do not fall under *PIDA* may be dealt with through other established internal and external policies and reporting guidance (see also <u>Appendix A</u>), such as concerns about:

- Individual employment or contract disputes per the applicable collective agreement, terms and conditions of employment, and/or <u>Standards of</u> <u>Conduct for IH Employees</u>;
- Collective agreement violations, which follow the grievance process, or other processes, as set out in the collective agreement;
- Medical Staff Bylaws;
- Safety hazards and unsafe working conditions addressed in <u>AV1100</u> Employee Incident Reporting and Investigation;
- Harassment, bullying, discrimination, racism and other forms of disrespectful behaviour covered by the applicable collective agreement, <u>Workplace Environment</u> and <u>Anti-Racism</u> policies and/or WorkSafeBC processes;
- Discrimination and harassment complaints under the applicable collective agreement, WorkSafeBC processes, and/or <u>BC Human Rights Code</u>;
- Recognizing and responding to Hazards, Near Misses, or Adverse Events affecting patient safety;
- Client quality of care issues covered by IH's <u>Client Complaint Management</u> process;
- Danger to the safety of persons or the environment under <u>Environmental</u> Public Health and Community Care and Facilities Licensing;
- Allegations of theft, fraud or corruption as outlined in the <u>Theft, Fraud and Corruption Policy;</u>
- Breaches of privacy and unauthorized access to, collection, use, and
 Disclosure of Personal Information that may be handled by the <u>IH Privacy</u>
 <u>Office</u>;
- Allegations of improper use of IH information systems as outlined in Information Systems Acceptable Use of Policy; and/or
- Disclosures of Wrongdoing by members of the public, and conduct that does not meet the definition of Wrongdoing set out in *PIDA* may be covered by IH's <u>Safe Reporting Policy</u>.

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3.2 Confidentiality and Privacy

- The identity of Employees or Health Professionals who request Advice pertaining to reporting Wrongdoing, disclose a Wrongdoing, complain about a Reprisal will be kept confidential by a Supervisor, a Designated Officer or anyone investigating a Report unless:
 - They are fulfilling their responsibilities under this policy,
 - They are addressing a recommendation of the Ombudsperson;
 - They are fulfilling another lawful purpose;
 - The Employee or Health Professional has provided consent in writing to disclose their identity; or
 - The information has already been legally published.
- All Personal Information that IH collects, uses or shares receiving a request for Advice, receiving or responding to a Disclosure, or conducting an Investigation will be treated as confidential and will be used and disclosed as described in this Policy, the <u>Public Interest Disclosure Act Procedure</u>
 <u>Guide</u>, PIDA or as otherwise permitted or required under the <u>Freedom of Information and Protection of Privacy Act (FOIPPA)</u> and other applicable laws.
- In preparing annual reports under Section 4.4 of this policy, IH must delete or exclude any material that would reveal the identity of the Employee or Health Professional who reports Wrongdoing.
- All reporting under this Policy will be in compliance with the requirements of *FOIPPA*.

3.3 Protection from Reprisal

- IH will not tolerate Reprisal against an Employee or Health Professional who, in good faith, discloses serious Wrongdoing. No person can take a Reprisal against an Employee or Health Professional, including Supervisors, coworkers, executive or alleged wrongdoers.
- Employees or Health Professionals are protected from Reprisal when they:
 - Seek Advice about making a Disclosure;
 - Make a Disclosure in good faith; or
 - Cooperate with an investigation (collectively, "Protected Acts").
- Employees or Health Professionals are protected from any person taking an adverse measure against them which impacts their employment because

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they did a Protected Act under *PIDA*. An adverse measure can include termination, suspension and demotion, as well as subtler measures like bullying, ostracizing or a workplace transfer.

- Under PIDA, Reprisal is an offence, punishable by a fine.
- If an Employee or Health Professional believes that a reprisal has been taken against them, they may contact the Designated Officer or the Ombudsperson's office to make a complaint. The Ombudsperson is responsible for investigating complaints of Reprisal from public bodies under the jurisdiction of *PIDA*. More information can be found on the Ombudsperson's <u>website</u>.

4.0 RESPONSIBILITIES

4.1 Employees and Health Professionals

- Report (disclose) any real or suspected Wrongdoing in good faith and in accordance with the established <u>Public Interest Disclosure Act Procedure</u> <u>Guide</u>. Anyone who makes a false statement or misleads or attempts to mislead anyone who is fulfilling their responsibilities under <u>PIDA</u> commits an offence for which an Employee or Health Professional can be fined.
- Keep the Wrongdoing Disclosure and investigation confidential. Do not share the identity of any Employee or Health Professional who discloses a Wrongdoing.
- Do not participate in Reprisals against Employees or Health Professionals who disclose a Wrongdoing or participate in investigations. Anyone committing a Reprisal can be penalized (see 3.3 Protection from Reprisal).

Employees or Health Professionals are not required to participate in a Wrongdoing investigation (interview and/or answer questions) unless requested to do so by the Ombudsperson. However, IH is grateful to all Employees or Health Professionals who cooperate with Designated Officers to respond to Wrongdoing within the organization and support a work environment where Employees or Health Professionals feel safe to disclose Wrongdoing.

4.2 Supervisors

• Foster a work environment where Employees or Health Professionals feel safe to disclose Wrongdoing and to stop Reprisal if observed.

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- Ensure all Employees or Health Professionals are made aware of this Policy including providing access to information and education about *PIDA*.
- When an Employee or Health Professional indicates they wish to request that their Disclosure be considered under the this Policy or are seeking Advice, respond to request within five business days and maintain a written records of the Advice provided.
- Keep the identity of any Employee or Health Professional who requests Advice or reports a Wrongdoing confidential and not disclose any information to their supervisor.
- Assist Employees or Health Professionals to document their written Disclosure if they request. When a written Disclosure is received from an Employee or Health Professional, forward it to a Designated Officer as soon possible.
- When required, support and fully cooperate with any investigations under this Policy.

4.3 Designated Officers

- Foster a work environment where Employees and Health Professionals feel safe to disclose Wrongdoing.
- When an Employee or Health Professional indicates they wish to request that their Disclosure be considered under this Policy or are seeking Advice, respond to the request within five business days and maintain a written record of the Advice provided.
- Receive written Disclosures of Wrongdoing and assess whether they fall
 within the scope of this Policy and will be investigated under PIDA or should
 be referred to another established IH process (see also <u>Appendix A</u>—
 Wrongdoing Reporting Flow Chart).
- Refer all Disclosures involving allegations about the President & Chief Executive Officer to the Ombudsperson after notifying the Chair of the Board of Directors and the Minister of Health, if applicable.
- Act immediately to prevent harm if the Disclosure indicates an Urgent Risk of serious harm.
- Notify the Employee or Health Professional who disclosed the Wrongdoing, the President & Chief Executive Officer, and any individuals accused of Wrongdoing of a decision to investigate the Disclosure.

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- Conduct a Reprisal risk assessment on an ongoing basis and take steps to address or minimize risk of Reprisal.
- Where required, conduct an investigation or designate an appropriate and qualified investigator, who may be an internal or external party, to investigate the allegations of Wrongdoing.
- Adhere to the principles of procedural fairness and natural justice when conducting an investigation.
- At the conclusion of an investigation, prepare a report of any findings of Wrongdoing, reasons to support such findings and any recommendations to the President & Chief Executive Officer and to the Employee or Health Professional. Where practicable, provide a summary to any person alleged or found responsible for Wrongdoing.
- Upon consultation with the President & Chief Executive Officer, report an alleged offence to a law enforcement agency if the Designated Officer has reason to believe that an offence may have been committed.
- Promptly refer Reprisal complaints to the Ombudsperson.
- Keep appropriate records in a secure and confidential manner.
- Provide an annual aggregate, anonymous report to the President & Chief Executive Officer and IH Board of Directors that includes the number and nature of reported Wrongdoings and action taken in response to them. The report will be made publicly available on the IH website.

4.4 President & Chief Executive Officer

- Has overall responsibility and administration of this Policy including ensuring education about this Policy and related <u>Public Interest Disclosure</u> <u>Act Procedure Guide</u> is available to all Employees and Health Professionals.
- Designates one or more senior officials as Designated Officers.
- Receives investigation reports from the Designated Officer and takes corrective measures to remedy the Wrongdoing.
- Publishes annual reports on activities under PIDA.
- Responds within 30 days to requests by the Ombudsperson for information regarding steps IH has taken to address recommendations about findings of Wrongdoing made by the Ombudsperson.

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• Where warranted, makes the facts established in an investigation known to the appropriate enforcement agency or regulatory body and institutes legal proceedings to seek resolution and remedies.

5.0 SUMMARY PROCEDURES

Detailed procedural steps described in IH's <u>Public Interest Disclosure Act Procedure</u> <u>Guide</u> are summarized below and in <u>Appendix B</u>.

5.1 Requests for Advice

- An Employee or Health Professional who is considering making a Disclosure under *PIDA* may seek Advice about doing so from:
 - Their union representative;
 - A lawyer (at their own expense);
 - Their supervisor;
 - IH Designated Officers; or
 - The Ombudsperson.
- Advice may help the Employee or Health Professional to decide how to address their concern. An Employee or Health Professional might request advice about the following:
 - The meaning of Wrongdoing under PIDA;
 - What other mechanisms might be appropriate for addressing their concerns;
 - How their identity can be protected under the PIDA process;
 - How to make a Wrongdoing Disclosure;
 - How the PIDA process works; or
 - Whether to direct their report to the BCOmbudsperson.
- Employees and Health Professionals may contact their Supervisor or the Designated Officer by email or telephone.
- The supervisor or Designated Officer may require the Employee or Health Professional to make the request for Advice under *PIDA* in writing.
- Employees or Health Professionals who seek Advice from their supervisor, IH Designated Officers or the BC Ombudsperson are protected from Reprisal under *PIDA*. This protection applies whether or not the Employee or Health Professional decides to make a Disclosure.

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5.2 Making a Disclosure

• Employees and Health Professionals can report allegations of Wrongdoing under *PIDA* section 7(1) by making a Disclosure to their Supervisor, Designated Officer or the Ombudsperson.

A Disclosure should:

- be in writing, preferably using the webform available;
- include the following information, (if known):
 - o a description of the Wrongdoing and any available details;
 - o the name of the individuals who have committed, or are about to commit the Wrongdoing; the date of the Wrongdoing; and
 - o Whether the Wrongdoing relates to an offence or a crime, and if so, which one.
- If the Employee or Health Professional are unable to provide a written disclosure they can seek assistance from their supervisor or IH Designated Officers.
- Employees and Health Professionals who wish to make a Disclosure may do so anonymously. However, an anonymous Disclosure cannot be considered if the Designated Officer cannot determine if the discloser is a current or former IH Employee or Health Professional. Also, the Employee or Health Professional may not receive any updates on the disclosure and the ability to investigate may be limited.
- An Employee or Health Professional may report under PIDA and another process at the same time, if appropriate. To avoid duplication, Employees and Health Professionals may be asked when they report if they have reported under another reporting mechanism.

5.3 Making a Disclosure about Urgent Risk

- Section 16 of PIDA allows for Employees and Health Professionals to make public Disclosures (for example to the media) if the Employee or Health Professional reasonably believes that a Wrongdoing poses an Urgent Risk. An Employee or Health Professional must take the following steps prior to making an urgent public disclosure:
 - consult the relevant Protection Official, as follows:
 - o in respect to a health-related matter, the Provincial Health Officer;

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- o in respect of an environmental matter, Emergency Management BC: or
- o in any other case, the appropriate police force
- receive direction from the Protection Official about whether to make the disclosure, and if so, on what conditions; and
- where the Protection Official approves the disclosure, make the disclosure in accordance with any conditions the Protection Official imposes.
- Employees and Health Professionals who make a public Disclosure must not share information that is confidential according to any BC or Canadian law, protected by Solicitor-Client Privilege, protected by any common law Rule of Privilege or subject to Public Interest Immunity (unless the Attorney General provides consent).
- Immediately after making a public disclosure the Employee or Health Professional must notify their Supervisor or a Designated Officer and Report the Wrongdoing as per Section 5.2 of this policy.

5.4 After Making a Disclosure

- IH's <u>Public Interest Disclosure Act Procedure Guide</u> is in place to manage the investigation once a disclosure is received by a Supervisor or a Designated Officer including acting immediately to prevent harm if the Disclosure indicates Urgent Risk; request and review documents as part of the investigation and investigate other Wrongdoings that may be uncovered.
- A Designated Officer may delegate the investigation to an external consultant or to the Ombudsperson.
- The risk of Reprisal against Employees and Health Professionals will be assessed on an ongoing basis and steps taken to address or minimize risk.
- An Employee or Health Professional who have made a disclosure and have experienced a Reprisal may complain about a Reprisal to the Ombudsperson.
- A report will be produced and provided to the President & Chief Executive Officer that includes any findings of Wrongdoing, reasons to support such findings, and any recommendations to address issues with policy, practice

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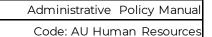
and systems. The President & Chief Executive Officer will consider the findings and recommendations and take corrective actions. If the President & Chief Executive Officer declines to take corrective measures, they will set out the reasons for declining to do so in the annual report.

- The disclosing Employee or Health Professional who provided the Disclosure and other appropriate individuals as required will be provided with a summary report. Where practical, a report will be provided to any person alleged or found responsible for Wrongdoing.
- An annual report will be produced and be made publicly available on IH's website.

6.0 REFERENCES

- 1. BC Public Interest Disclosure Act
- 2. Order in Council Regulation No. 324
- 3. BC Office of the Ombudsperson PIDA Resources
- 4. IH Board of Directors Safe Reporting Policy
- 5. AU0100 Standards of Conduct for IH Employees
- 6. AU1000 Workplace Environment
- 7. AU2200 Anti-Racism
- 8. AU4000 Theft, Fraud and Corruption
- 9. AV1100 Employee Incident Reporting and Investigation Policy
- 10. AV3000 Psychological Health and Safety in the Workplace
- 11. Health Authority Medical Advisory Rules and Bylaws
- 12. AL0600 Duty to Report Suspected Child Abuse and Neglect
- 13. AK0400 Recognizing and Responding to Hazards
- 14. AR0100 Information Systems Acceptable Use of
- 15. <u>ARO400 Privacy and Management of Confidential Info</u>rmation
- 16. AK0100 Client Complaint Management Policy

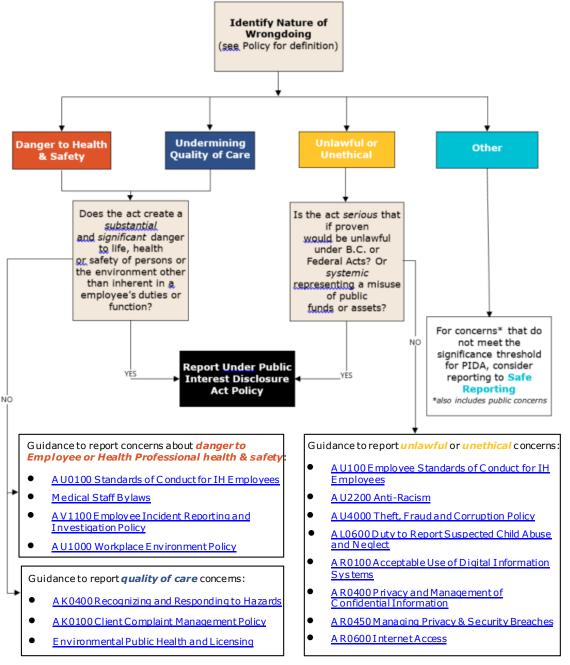
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Appendix A – Flow Chart: Reporting a Wrongdoing as an IH Employee or Health Professional



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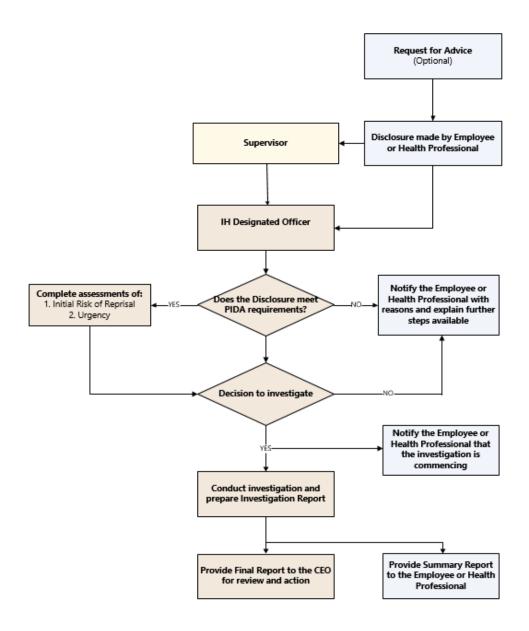
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Appendix B: Summary PIDA Procedures (details in Procedure Guide)



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