

Disclosure of Wrongful Conduct (Whistleblower Policy)

This policy is intended to instruct Board members and employees of their responsibility to disclose wrongful conduct (theft of money/resources, fraud, harmful/protected actions, etc.), their responsibility to investigate alleged wrongful conduct, and the protection of any employee who engages in good faith disclosure of alleged wrongful conduct to a public body or to a designated Board of Education member or designated officer. More specifically it:

- a) Encourages employees to disclose serious breaches of contract covered by District policies, administrative regulations, or violations of law) theft, fraud, etc.;
- b) Informs employees how allegations of wrongful conduct can be disclosed;
- c) Protects employees from reprisal by adverse employment action as a result of having disclosed wrongful conduct; and
- d) Provides individuals who believe they have been subject to reprisal a fair process to seek relief from retaliatory acts.

District Board members and employees are expected to abide by applicable state and federal laws. A Board member and employee cannot be compelled by a supervisor or District official to violate a District Policy, Regulation, an applicable law, or public policy. In the interest of the District, a Board member or employee who has particular knowledge of specific acts that he or she reasonably believes constitute wrongful conduct should disclose the conduct to the appropriate District official or designated officer defined under this Policy. If an adverse employment action is taken against a District employee in knowing retaliation for his or her good faith disclosure of information to a designated Board appointee concerning alleged wrongful conduct, as defined under this policy, and if the employee's work performance or behavior did not warrant the adverse action, then the District shall take remedial action for the employee and corrective action against the supervisor.

The term “designated officer” shall be defined to include:

- Superintendent of Schools
- Assistant Superintendent
- Board of Education member
- school district attorney
- school district external auditor
- school district internal auditor

Disclosure and Investigation

Individuals who know or have reasonable cause to believe that wrongful conduct has occurred shall report such mismanagement, fraud or abuse to a designated officer. Upon receiving a report of alleged wrongful conduct, the designated officer shall take immediate steps to inform the Board of Education.

Staff members who suspect a violation of state testing procedures has occurred shall report their concerns to the building principal, the Superintendent or the State Education Department (SED). Any building principal receiving such a report shall relay this information immediately to the Superintendent.

The designated officer or his/her designee shall maintain a written record of the allegation, conduct an investigation to ensure that the appropriate unit (auditors, policy, SED, etc.) investigates the disclosure and notify the Board when appropriate to do so.

Except as otherwise provided in either state and/or federal law, the designated officer shall make all reasonable attempts to protect the identity of the individual making the disclosure in a confidential manner as long as doing so does not interfere with conducting an investigation of the specific allegations or taking corrective action.

Complaints of Reprisal

An employee who has been subject to an adverse employment action based on his or her prior disclosure of alleged or actual wrongful conduct or participation/cooperation in the investigation may contest the action by filing a written complaint of reprisal with the Board president. The Board president or his/her designee will review the complaint expeditiously and consult with the school attorney to determine:

- whether the complainant made a disclosure of alleged wrongful conduct or participated/cooperated in an investigation before an adverse employment action was taken;
- whether the responding party could reasonably have been construed to have had knowledge of the disclosure or participation/cooperation in an investigation and the identity of the disclosing/participating/cooperating employee;
- whether the complainant has in fact suffered an adverse employment action after having made the disclosure or participation/cooperation in an investigation;
- whether the complainant alleges that adverse employment action occurred as a result of the disclosure or participation/cooperation in an investigation.

If it is determined that all of the above elements are present, he or she shall appoint a review officer or panel to investigate the claim and to make a recommendation to the Board. At the time of appointment the complainant and the respondent shall be informed in writing of:

- the intent to proceed with an investigation;
- the specific allegations to be investigated;
- the appointment of the review officer or panel;
- the opportunity of each party to support or respond in writing to the allegation.

Once the review officer or panel has conducted a review and considers the investigation to be complete, the officer or panel will notify the designee of its completion. From the date of that notice the review officer has 30 days to report his or her findings and make any recommendations he or she deems appropriate to the designee. The designee, in conferral with the appropriate administrator or Board of Education, shall issue a letter of findings to both the complainant and the respondent.

The decision of the review officer or panel is binding. Nothing in this policy is intended to interfere with legitimate employment decisions. The Superintendent of Schools shall establish regulations necessary to implement this policy.

Policy Implementation

This Policy shall be provided to all employees at the time of their hiring, and a copy given to all employees on an annual basis.

Ref: Civil Service Law §75-b, Labor Law §740, *Garrity v. University of Albany*, 301 A.D. 2d 1015 (3rd Dept. 2003), *Matter of Brey v. Board of Education*, 245 A.D. 2d (3rd Dept. 1997)