

Disclosure of Wrongful Conduct (Whistleblower Policy)

The Board of Education expects officers and employees of the district to fulfill the public's trust and expects them to conduct themselves in an honorable manner, abiding by all district policies and regulations and by all applicable state and federal laws and regulations.

If district officers, employees, volunteers, vendors, contractors or members of the general public know or have reasonable cause to believe that serious instances of wrongful conduct (e.g., mismanagement of district resources, violations of law and/or abuse of authority) have occurred, they should report such wrongful conduct to the Board or one of its designated officers.

For purposes of this policy, the term 'wrongful conduct' shall be defined to include:

- theft of district money, property or resources;
- misuse of authority for personal gain or other non-district purpose;
- fraud;
- actions that compromise the security and integrity of the district's or state's testing program;
- violations of applicable federal and state laws and regulations; and/or
- serious violations of district policy, regulation and/or procedure.

The term "designated officer" shall be defined to include:

- Superintendent of Schools
- 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 Superintendent of Schools, the school attorney or the external auditor or internal auditor 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, posted in employee lounges and shall be posted on the district website.

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)