

Subject: 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 ethical manner, abiding by all district policies and regulations and by all applicable state and federal laws and regulations.

If district officers or employees know or have reasonable cause to believe that instances of wrongful conduct (e.g., mismanagement of district resources, violations of law or regulation and/or abuse of authority) have occurred, they should report such wrongful conduct to the Board or one of its designated officers. Alternatively, or in addition, district employees may report their concerns to a governmental agency or entity.

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;
- conflicts of interest or abuse by district officers or employees relating to their office or employment;
- actions that present a substantial or specific danger to public health or safety;
- 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.

Reporting and Investigation

Employees and officers who know or have reasonable cause to believe that wrongful conduct has occurred shall report the alleged conduct to the Board of Education, the Superintendent of Schools (or designee), an Internal/External Auditor or Audit Committee, who must immediately notify the Board. Building Principals or other supervisory personnel may also receive such reports and must notify the Superintendent unless the Superintendent is the subject of the report. Upon receiving a report of alleged wrongful conduct, the Board, Superintendent or designee may take immediate steps to authorize an investigation.

Staff members who suspect that a violation of state testing procedures has occurred by a certified educator, or non-certified individual involved in the state testing program, must report their concerns to the State Education Department (SED) in the manner prescribed by the Commissioner of Education. Employees also should report these concerns to the Superintendent or Board of Education. Any Building Principal receiving such a report must relay this information to the Superintendent, or directly to the Board, if the Superintendent is the subject of the report.

The Board or Superintendent or designee must maintain a written record of the allegation and the results of any investigation. The Board or Superintendent or designee may also refer the matter to any appropriate entity or agency (e.g., auditors, police, SED, State Comptroller, etc.), and the Superintendent or designee will notify the Board when appropriate to do so.

Except as otherwise provided in either state and/or federal law, the Superintendent of Schools or designee, Internal/External Auditor or Audit Committee shall make all reasonable attempts to protect the identity of the employee 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.

Prohibition of Retaliatory Action “Whistleblower” Protection

The Board prohibits any retaliatory action and the district will not take adverse employment action against an employee who has, in good faith, notified the district and/or a governmental body of wrongdoing, including but not limited to instances where an employee has reported misconduct when mandated to do so by federal or state law or regulation (e.g., child abuse, state testing misconduct). Additionally, the Board prohibits any retaliatory or adverse employment action against employees who are witnesses and/or participate in the investigation of any wrongful conduct. Any act of retaliation is subject to appropriate disciplinary action by the district.

Complaints of Reprisal

An employee who has been subject to an adverse employment action based on their prior disclosure of alleged or actual wrongful conduct may contest the action by filing a written complaint of reprisal with the Superintendent or Designee, or if the Superintendent is the subject of the complaint, the Board President or designee who will review the complaint expeditiously to make a preliminary determination as to:

- whether the complainant made a disclosure of alleged wrongful conduct before an adverse employment action was taken;
- whether the responding party could reasonably have been construed to have had knowledge of the disclosure and the identity of the disclosing employee;
- whether the complainant has in fact suffered an adverse employment action after having made the disclosure;

- whether the complainant alleges that adverse employment action occurred as a result of the disclosure.

If all of the above elements are present, the Superintendent or designee, or Board President or designee if the Superintendent is the subject of the report or allegation, will investigate the claim and make a recommendation to the Board. The Superintendent or designee will inform the complainant and the respondent, in writing, of:

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

Once the Superintendent or designee, or Board President or designee if the Superintendent is the subject of the report or allegation has conducted a review and considers the investigation to be complete, the Board will be notified of its completion. From the date of that notice, the Superintendent or designee, or Board President or designee, has 30 days to report the findings and make any recommendations deemed appropriate to the Board. The Superintendent or designee, or Board President or designee, in conferral with the Board and school attorney, if appropriate, will make a final determination and issue a binding letter of findings to both the complainant and the respondent.

Nothing in this policy is intended to interfere with legitimate employment decisions.

Any district employee who knowingly makes false accusations of wrongful conduct against another individual may also be subject to appropriate discipline.

Policy Implementation

This policy shall be provided to all employees.

Ref: Civil Service Law §75-b
 Education Law §3028-d
 Labor Law §740
 8 NYCRR §§102.3, 102.4 (testing misconduct)
Matter of Brey v. Bd. of Educ., 245 A.D. 2d 613 (3rd Dept. 1997) (termination based on work deficiency, not retaliation)

BOE: 7/23/13

Amended: 1/3/17

Amended: 2/11/25