

DISCLOSURE OF WRONGFUL CONDUCT (Whistleblower Policy)

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

However, when District officers or employees know or have reasonable cause to believe that instances of wrongful conduct (e.g., mismanagement of District resources, unethical behavior, violations of law or regulation, and/or abuse of authority) have occurred, they should report such wrongful conduct to the Superintendent of Schools, the Board, and/or designee(s) thereof. Alternatively, or in addition, District officers or employees may report their concerns to a governmental agency or entity.

Definition

For purposes of this policy, the term "wrongful conduct" shall be defined to include, but is not limited to:

- 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/or regulations; and/or
- serious violations of District policy, regulation, and/or procedure.

Disclosure and Investigation

Employees and officers who know or have reasonable cause to believe that wrongful conduct has occurred or is occurring should report such wrongful conduct to the Superintendent, the Board, and/or designee(s) thereof. Building Principals or other supervisory personnel may also receive such reports, and must notify the Superintendent, unless the Superintendent is a subject of the report.

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 such concerns directly to the State Education Department (SED) in the manner prescribed by the Commissioner of Education. Such employee should also report said concern(s) to the Superintendent or the Board. Any Building Principal receiving such a report shall immediately relay this information to the Superintendent or, if the allegation involves the Superintendent, the Board.

Upon receiving a report of alleged wrongful conduct, the Superintendent, Board, or designee(s) thereof shall maintain a written record of the allegation, ensure the District takes immediate steps to conduct an investigation, and maintain a written record of the results of the investigation. The Superintendent, Board, or designee(s) thereof 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 or federal law, the Superintendent, Board, or other designee(s) conducting the investigation 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 the investigation of the specific allegations and/or the District's ability to take corrective action.

The District shall not take adverse employment action against an employee who has in good faith provided notice to the District and/or a governmental body of wrongful conduct that the employee knows or has reasonable cause to believe has occurred including, but not limited to, instances where an employee has reported wrongful conduct as mandated to do so by federal or state law or regulation (e.g., child abuse, state testing misconduct, etc.).

Complaints of Reprisal

Employees who allege they have been subject to an adverse employment action based on a 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. The Superintendent, Board President, or designee 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; and
- whether the complainant alleges that adverse employment action occurred as a result of the disclosure.

If it is determined that all of the above elements are present, the Superintendent, Board President, or designee shall either investigate the claim or appoint a review officer or panel to investigate the claim. Following the investigation, the Superintendent, Board President, or designee shall make a recommendation to the Board. Prior to initiating the investigation, the Superintendent, Board President, or designee shall inform the complainant and the respondent, in writing, of:

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

Once the Superintendent, Board President, designee, review officer, or panel has conducted a review and has completed the investigation, the Board will be notified of its completion. Thereafter, the findings of the investigation shall be reported and any recommendations deemed appropriate shall be made to the Board. The Superintendent, Board President, or designee, in consultation with any appropriate employees, officers, or departments, shall make a final determination and issue a letter of findings to both the complainant and the respondent. This final determination shall be binding.

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

Dissemination and Review

This policy shall be published in employee handbooks, posted in employee lounges, and given to all employees with fiscal accounting and/or money handling responsibilities on an annual basis.

The Superintendent and others involved in the implementation of this policy shall meet with the Board once a year to evaluate the effectiveness of this policy and to make appropriate adjustments, if any, to the policy.

The Superintendent is hereby authorized to develop and implement any regulations, procedures, and/or protocols necessary to implement this policy.

Ref: Civil Service Law §75-b
Education Law §3028-d
Labor Law §740
8 NYCRR §§102.3; 102.4
Matter of Brey v. Bd. of Educ., 245 A.D. 2d (3rd Dept. 1997)

Adoption date: May 8, 2007

Revised: January 18, 2023