



Policy: HR-813

DIVISION: Human Resources

EFFECTIVE: April 13, 2019

NAME: Whistleblowing:
Employee Disclosure of Wrongdoing

APPROVED: April 13, 2019

AMENDED: Click or tap to enter a date.

POLICY STATEMENT:

Employees of the Newfoundland and Labrador English School District (the “District”) who may have serious concerns about improper activities or potential wrongdoing within the organization have the right and obligation to bring forward their concerns. The District will conduct a fair and timely investigation of alleged wrongdoing and will protect any employee from reprisal who makes a good faith disclosure under this policy.

BACKGROUND:

The Newfoundland and Labrador English School Board is committed to upholding the public trust and to ensuring the highest standards of behaviour. The Board expects all employees, and others performing work on behalf of the Board, to behave in an ethical and honest manner at all times. Furthermore, the Board believes that the vast majority of its employees are committed to acting professionally, with integrity, and in the best interests of students and the public. Any employee who may be aware of improper activity or wrongdoing is expected to make their concerns known. The purpose of this policy is to define a process which allows for the disclosure of wrongdoing to the District.

SCOPE:

This policy applies to all District employees: unionized, non-unionized and management; full-time, part-time, casual, substitute; permanent or temporary; apprentice, work term/intern or contract. Bargaining unit employees should also consult their respective collective agreements.

DEFINITIONS:

Good Faith - For the purposes of this policy, “good faith” is evident when a report is made without malice or consideration of personal benefit, and the employee has a reasonable basis to believe that the report is true.

Investigation - The systematic and objective examination of the facts relevant to a complaint. An investigation may involve interviewing individuals as well as a review of physical evidence such as documents or emails.

Reprisal - Reprisal refers to action taken against an employee for making a report to the District, in good faith, under this policy. Reprisal actions include:

- A disciplinary measure;
- Demotion of the employee;
- Termination of the employee;
- Any measure that adversely affects the employment or working conditions of the employee; or,
- A threat to take any of the aforementioned measures.

Wrongdoing - Wrongdoing includes, but is not limited to:

- Conduct that contravenes provincial or federal statutes or regulations including, but not limited to the Schools Act, 1997 and regulations under the Act, if the contravention relates to the official activities of employees or any public funds or assets;
- Deliberate non-compliance with board policies and procedures;
- Any act or omission that creates a substantial and specific danger to the life, health or safety of a person or persons;
- Knowingly directing or counseling a person to commit a wrongdoing; or
- Taking reprisal action against an employee.

Fraud - As referenced in the Criminal Code of Canada and as defined in the Government of Newfoundland and Labrador’s Fraud Management Policy: “Fraud” is any act or omission designed to deceive others, resulting in a victim suffering a loss and/or the perpetrator achieving a gain for themselves or a third party. Intention is the key element that distinguishes fraud from irregularity. Fraud does not just have a potential financial impact, but it can cause damage to the reputation of an organization responsible for managing funds effectively and efficiently. Fraud includes acts committed internally within (the District) as well as externally against (the District). Specific instances or indicators of fraud may include:

- falsification or alteration of financial records, payroll records or employment records including, without limitation, records relating to overtime and leave;
- unauthorized use of a (District) credit card;
- unauthorized use of (District) owned or leased vehicles and equipment;
- intentional corruption of (District) files or data;
- reimbursement of non-legitimate expenses or unworked hours;
- accepting bribes or kickbacks;
- bid rigging or other forms of collusion with vendors;
- an employee or officer or contractor who has reasonable grounds to believe that they have a conflict of interest and intentionally fails to declare;
- theft, misappropriation or other fraudulent use of public funds or property;
- conversion of public funds or property to personal use;
- intentional overbilling or short shipment by vendors;
- offence under the Financial Administration Act; or
- intention to deceive by the suppression of truth or the suggestion of what is false.

(This list is intended to be illustrative and is not an exhaustive list)

For the purposes of this policy, wrongdoing does not include complaints involving harassment as defined by Policy HR-800: The NLESD Respectful Workplace/Harassment Prevention and Resolution Policy. Any employee intending to make a report regarding respectful workplace/harassment matters should refer to that policy.

POLICY DIRECTIVES:

1. The Board will make every reasonable effort to discourage wrongdoing and will establish and maintain internal controls to ensure, to the fullest extent possible, the prevention and detection of wrongdoing.
2. The Board will not tolerate any misuse or misappropriation of its funds and assets.
3. Employees have the right and obligation to come forward if they believe that wrongdoing has taken place or is about to take place.
4. Where there are reasonable grounds, the Board will investigate any and all incidents of suspected or alleged acts of wrongdoing in an impartial, fair and timely manner.

5. The Board will make every effort to ensure that confidentiality is maintained at all stages of the investigation for all individuals directly involved in the process, unless the issue requires investigation by law enforcement or unless disclosure is required by law.
6. An anonymous report of suspected wrongdoing will only be acted upon if the evidence collected during the initial stage indicates the disclosure can be properly investigated and is in the public interest.
7. All employees are expected to cooperate to the fullest extent possible in any investigation of an alleged wrongdoing.
8. When a wrongdoing is confirmed by an investigation, appropriate disciplinary action will be taken, up to and including termination of employment and/or contract.
9. In the event of potential criminal misconduct, the matter will be referred to the police.
10. Reprisals or threats of reprisals against employees acting in good faith are prohibited and the Board will make every effort to ensure that such an employee is protected from harassment, retaliation or adverse employment or contract consequence.
11. This policy provides for a disclosure process for district employees within the organization. This policy is in addition to, and not in substitution for, the Public Interest and Whistleblower Protection Act of the Government of Newfoundland and Labrador and does not affect or replace any rights of an employee of the District to make a disclosure under that Act.
12. This policy does not affect or replace any other duty to make a report that is required or permitted under legislation, or where there is reason to believe there is imminent or serious danger to a person or persons.
13. This policy is in addition to, and not in substitution for, such rights as an individual may have under applicable collective agreements, the Human Rights Act, 2010, the Criminal Code of Canada, or other board policy. Nothing in this policy is intended to modify the Board's right to manage its employees under any policy or collective agreement or to prohibit any disciplinary action which otherwise would have been taken.