

DISCLOSURE OF WRONGFUL CONDUCT

The Board of Education (the “Board”) expects District officers and employees to fulfill the public’s trust and conduct themselves in an ethical and honorable manner and to abide by all District policies and regulations as well as by all applicable state and federal laws and regulations.

When District officers, current or former employees, or independent contractors know or have reasonable cause to believe that serious 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 are encouraged, if they feel comfortable, to report such wrongful conduct to either the Board, the Superintendent, the School Attorney, or the Internal Auditor, as appropriate. Alternatively, or in addition, District officers or employees may report their concerns to an outside governmental agency or entity.

For purposes of this policy, the term “wrongful conduct” includes, but is not limited to:

- Theft of District money, property or resources
- Misuse of authority for personal gain or other non-district purpose
- Fraud
- Actual 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 State’s or District’s testing program
- Violations of applicable federal and state laws and regulations, and/or
- Serious violations of District policy, regulation and/or procedure.

A. Internal Reporting and Investigation

District employees or officers who know or have reasonable cause to believe that wrongful conduct has occurred are encouraged to report such conduct, if they feel comfortable, to either the Board, the Superintendent (or designee), School Attorney, Internal Auditor, External/Independent Auditor, or Audit Committee, who, in turn, must notify the Board of such allegations/reports. Building Principals or other supervisory personnel may also receive such reports and must notify the Superintendent when they receive such a report, unless the Superintendent is a subject of the report, in which case they should notify the Board. Upon receiving a report of alleged wrongful conduct, the Board, Superintendent or designee will take immediate steps to authorize an investigation.

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, law enforcement, SED, State Comptroller, etc.), and the Superintendent or designee will notify the Board.

Except as otherwise provided in either state and/or federal law, the Board or Superintendent or designee will make all reasonable attempts to protect the identity of the District employee making the disclosure in a confidential manner, as long as doing so does not interfere either

with conducting an investigation of the specific allegations or the District's ability to take corrective action.

B. Alleged Violation of State Testing Procedures

Staff members who suspect that a violation of New York 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 are also encouraged, if they feel comfortable, to report concerns to the Superintendent or the Board. Any Building Principal receiving such a report must relay this information to the Superintendent, or directly to the Board, if the Superintendent is a subject of the report.

C. Complaints of Reprisal

The District will not take adverse employment action or threaten to 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) or where the employee or officer has reasonable cause to suspect that the fiscal practices or actions of an employee or officer violate any local, state or federal law or regulation.

An employee who alleges 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. In consultation with the School Attorney if appropriate, the Superintendent or designee, or the Board President will review the complaint expeditiously to make a preliminary determination as to whether the:

1. Complainant made a disclosure of alleged wrongful conduct before an adverse employment action was taken
2. Responding party could reasonably have been construed to have had knowledge of the disclosure and identity of the disclosing employee
3. Complainant has in fact suffered an adverse employment action after having made the disclosure, *and*
4. 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, in consultation with the School Attorney if appropriate, will investigate the claim and make a recommendation to the Board. The Superintendent or designee or the Board President, if the Superintendent is the subject of the report or allegation, will inform the complainant and the respondent, in writing, of the:

1. Intent to proceed with an investigation
2. Specific allegations to be investigated
3. 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, in consultation with the School Attorney if appropriate, 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 thirty (30) school 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 Board and school attorney, if appropriate, will make a final determination and issue a letter of findings to both the complainant and respondent.

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

D. Policy Implementation and Annual Review

This policy will be available to employees via the district website and is available in hardcopy at the District Office.

The Superintendent or designee will periodically review this policy to evaluate its effectiveness.

Policy References

N.Y. Civil Service Law §75-b

Education Law §3028-d

N.Y. Labor Law §740

8 NYCRR §§102.3 and 102.4 (testing misconduct)

Matter of Brey v. Bd. of Educ., 245 A.D. 2d (3rd Dept. 1997) (termination based on work deficiency, not retaliation)

Reviewed: April 2024

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