Disclosure of Wrongful Conduct (Whistleblowing)

Overview

The members of the Board of Education, its officers, all employees and outside independent consultants engaged by the school district are all required to comply with the Board of Education's policies as well as administrative regulations while discharging their school district's responsibilities. In addition, all such individuals must at all times comply with all federal and/or state laws and regulations while conducting school district business.

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 are encouraged, if they feel comfortable, to 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.

Financial Improprieties or Wrongful Conduct

For purposes of this policy, "financial improprieties" and "wrongful conduct" shall include, but not necessarily be limited to, the following:

- theft of district money, property, or resources;
- misuse of authority for personal gain or other non-district purpose;
- fraud;
- violations of applicable federal and state laws and/or regulations;
- serious violations of district policies and/or regulations.
- 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;

Reporting Procedures

In the event an individual has reason to believe that there has been financial impropriety or wrongful conduct committed, such individual shall report such belief to the individual's immediate supervisor. In the event the allegations concern the individual's immediate supervisor, the individual shall contact the next level of supervisory authority in the line-staff relationship.

In the event that pursuing the above approach is insufficient to ensure that an impartial and independent investigation of the allegation takes place, the individual making the report shall contact the President of the Board of Education, the Superintendent of Schools and the School Attorney.

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Investigation Procedure

Any supervisor receiving a report of alleged financial impropriety or wrongful conduct shall immediately bring it to the attention of the President of the Board of Education, the Superintendent of Schools and the School Attorney. Upon receipt of such report, the President of the Board of Education, Superintendent of Schools and the School Attorney shall bring to the attention of the entire Board of Education that such a report has been received. The Board of Education, or its designee, will conduct a thorough investigation of the allegation. To the extent possible, and consistent with applicable legal and regulatory constraints, all such reports shall be treated as confidential and shall not be disclosed unless it is necessary in order to do a complete, thorough and unbiased investigation. In the event the investigation reveals financial impropriety or wrongful misconduct, appropriate officials shall be notified. Disclosure of information pertaining to any such allegations shall be made only to those individuals who have a "need-to-know." Throughout the course of any investigation, a written record shall be maintained as to each aspect of the above investigation.

Upon completion of the investigation, a full report shall be made to the Board of Education. Except as otherwise provided by state and/or federal law, the individual designated by the Board of Education to conduct such an investigation and make such report shall protect the identity of the individual who made the allegation in a confidential manner so long as doing so does not interfere with whatever corrective action is taken.

If after reviewing the results of the investigation the Board of Education determines that financial improprieties have taken place or there has been wrongful conduct by an employee, the Board of Education shall take appropriate disciplinary action in accord with applicable statutes, regulations and collective bargaining agreements.

If individuals other than the school district employees are found to have engaged in financial improprieties or wrongful conduct, the Board shall take whatever action is necessary to impose appropriate sanctions as in warranted by law.

Reprisals Prohibited

The Board of Education expressly prohibits any retaliatory action being taken against any individual who, in good faith, reports allegations of suspected financial improprieties or wrongful conduct.

An employee who has been subject to any retaliation or who has suffered an adverse employment action based upon his having disclosed financial improprieties or wrongful conduct may file a written complaint of reprisal directly with the President of the Board of Education. The Board President will appoint a designee who will review the complaint expeditiously to determine:

1. whether the complainant made a disclosure of alleged wrongful conduct before an adverse employment action was taken;
2. whether the responding party could reasonably have been construed to have had knowledge of the disclosure and the identity of the disclosing employee;
3. whether the complainant has in fact suffered an adverse employment action after having made the disclosure; and
4. whether the complainant alleges that adverse employment action occurred as a result of the disclosure.

If the designee determines that all of the above elements are present, he or she shall report same to the Board of Education. The designee shall also inform the complainant and the respondent, in writing, of:

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

Once the designee has conducted a review and considers the investigation to be complete, he will notify the Board of Education of its completion. The designee shall report his or her findings and make any recommendations he or she deems appropriate to the Board of Education. The Board of Education shall issue a letter of findings to both the complainant and the respondent.

The decision of the Board of Education is binding.

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

The Superintendent of Schools shall establish administrative regulations, if necessary.

This policy and accompanying regulations shall be published on the district's web site and annually all employees will receive written notice referring them to the school district's web site to read this policy.

The Superintendent of Schools, the School Attorney and others involved in implementing this policy shall meet with the Board of Education once a year to evaluate the effectiveness of this policy and to make appropriate adjustments, if any, to the policy and accompanying regulations.

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Knowingly Filing a False Report

Any individual who knowingly makes a false accusation against another individual as to allegations of financial improprieties or wrongful misconduct may face appropriate disciplinary action as determined by the Board of Education.

Ref: Civil Service Law §75-b
Labor Law §740
Garrity v. University at Albany, 301 A.D. 2d 1015 (3rd Dept. 2003)
Matter of Brey v. Bd. of Educ., 245 A.D. 2d (3rd Dept. 1997)

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