

SAFE DISCLOSURE OF COMPLAINTS RELATED TO STAFF INCLUDING MANAGEMENT

Purpose

The District is committed to honesty, integrity, and accountability in its operations, programs, and services and to promoting a culture of openness and transparency. The District encourages and supports all personnel in bringing forward reports of unlawful acts and acts of Wrongdoing in a manner consistent with the provisions of the British Columbia *Public Interest Disclosure Act* (“PIDA”).

This administrative procedure outlines a process, in compliance with the PIDA, for individuals to report, in good faith, wrongful or unlawful conduct without fear of retaliation or reprisal.

Background

From time to time complaints may be made about alleged inappropriate action by a member of the District. Complaints against any employee may be made including members of the management team. All complaints will be dealt with expeditiously. Some forms of complaint are covered by procedures established through legislation, collective agreement, or other practices to which the District and its employees are committed. In every case complaints of this type will be handled in accordance with those procedures. Complaints not covered by such procedures shall be handled in accordance with this Administrative Procedure.

The District expects that all employees will demonstrate exemplary behaviour so as to maintain and increase public confidence and respect for the public school system. Expectations for exemplary behaviour of management shall be as those described in relevant documents of the B.C. Principals’ and Vice-Principals’ Association (BCPVPA), the B.C. School Superintendents’ Association (BCSSA), the B.C. Association of School Business Officials (BCASBO) and other similar associations.

The District expects that established procedures will be followed in respect of all complaints, including means of making judgments about the relative significance of those complaints. Any actions taken in relation to complaints shall be fully consistent with provincial legislation or regulation, with Board policy, with administrative procedures and with collective agreements, where these are relevant to the issue at hand.

Definitions

In this Administrative Procedure, the following capitalized terms are defined as indicated:

“**Complainant**” means the individual who has brought forward a report of Wrongdoing.

“**Designated Officer**” refers to the individual appointed by the Superintendent to;

- a) provide information and advice to individuals making a report;
- b) protect the confidentiality of individuals seeking advice or making reports under the Act;

- c) Manage and investigate reports of Wrongdoing in accordance with the policies and procedures of the District and the associated collective agreements where applicable; and
- d) Communicate the results of an investigation to the appropriate parties.

“Disclosure” means a report of Wrongdoing made under this procedure.

“Ombudsperson” means the Ombudsperson of British Columbia.

“PIDA” means the *Public Interest Disclosure Act* of British Columbia.

“Reprisal” means the imposition of, and any threat to impose, discipline, demotion, termination or any other act that adversely affects employment or working conditions of a member of Personnel because they made a Disclosure, sought advice, made a complaint about a Reprisal or participated in an investigation.

“Respondent” refers to the individual(s) who are named within the Disclosure as being responsible for the alleged misconduct.

“Wrongdoing” refers to:

- a) a serious act or omission that, if proven, would constitute an offence under an enactment of British Columbia or Canada;
- b) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of an employee’s duties or functions;
- c) a serious misuse of public funds or public assets;
- d) gross or systematic mismanagement;
- e) knowingly directing or counselling a person to commit any act or omission described in paragraphs (a) to (d) above.

Procedures

1. This Administrative Procedure is to reflect all the principles of natural justice, and actions will be undertaken in such a way as to reduce any tensions or emotional reactions that the complaint may generate.
2. A parent or student complainant wishing to appeal any decision, or lack of decision, by a District official that is covered by the scope of the Board Policy 16 – Appeals Bylaw shall utilize the procedure in that policy. Where the complaint is the proper subject for an investigation or grievance under a collective agreement with the District the collective agreement provisions shall be used.
3. Any complaint made by an excluded employee against a member of the management team shall be considered using this Administrative Procedure.
4. Students, parents and employees are to be reminded of the existence of this Administrative Procedure on an annual basis.
5. All personal information that the District collects, uses or shares in the course of receiving or responding to a Disclosure, a request for advice, a complaint of Reprisal or while conducting an investigation will be treated as confidential and will be used and disclosed as described

in this Procedure, the PIDA or as otherwise permitted or required under FIPPA and other applicable laws.

6. The handling of complaints are to be done so as to preclude the potential for retribution or Reprisals against those making complaints. The District will not commit or tolerate Reprisals against any individuals who, in good faith, make a request for Advice, make a Disclosure, participate in an investigation or make a complaint under this Procedure.

7. Initiating a Complaint

7.1. In order for these procedures to be activated, a complaint must be made in writing to, or in person at a meeting with the Superintendent, the Secretary-Treasurer, Assistant Superintendent, or the Director of Human Resources. Written complaints, or meeting notes signed by the complainant, received by the Board or an individual trustee, by another member of the management team, or by any other employee will be referred immediately to the Superintendent, unless the Superintendent is the subject of the complaint (in that case, see clause 7.3 below). Anonymous complaints will only be investigated where the report provides sufficient detail to conduct a fair investigation.

7.2. A complaint should be submitted in writing using the disclosure form, or in any other written form, and include the following information if known:

7.2.1. A description of the Wrongdoing;

7.2.2. The name of the person(s) alleged to be responsible for or to have participated in the Wrongdoing;

7.2.3. The date or expected date of the Wrongdoing;

7.2.4. If the Wrongdoing related to an obligation under a statute or enactment, the name of that statute or enactment; and

7.2.5. Whether the Wrongdoing has already been reported, and if so, to whom and a description of the response received.

7.3. If the Superintendent is the subject of the complaint, the matter will be referred to the Office of the Ombudsperson.

7.4. When a complaint is received, the Superintendent or Designated Officer will acknowledge receipt and inform the Respondent that a complaint has been made, along with a general statement of the nature of the complaint.

8. Preliminary Inquiry

8.1. The Superintendent will undertake a preliminary inquiry to determine whether the facts of the complaint warrant further inquiry. If the Superintendent decides that the facts do not warrant further inquiry, the complainant will be so notified in writing. The Superintendent will then advise in writing the Respondent that the facts of the complaint, notwithstanding the nature of the complaint, have been judged not to warrant further inquiry. Appeals from the decision of the Superintendent may be made, where deemed necessary, by the Complainant through Board Policy 16 – Appeals Bylaw.

9. Inquiry Procedures

9.1. If the Superintendent determines that the facts of the complaint warrant further inquiry, he or she will give written notification to:

- 9.1.1. The Respondent who is the subject of the complaint, that a complaint is to be inquired into, with a general statement as to the nature of the complaint, and the identity of the Complainant, and where appropriate invite the Respondent to involve representation from their respective Association, should one exist and they choose to do so,
- 9.1.2. The Board, confidentially, that a complaint is to be inquired into, with a general statement as to the nature of the complaint, along with the source of the complaint, and the name of Respondent against whom the complaint has been made,
- 9.1.3. The Complainant, that an inquiry into the complaint will be conducted.
- 9.2. After an initial review of the Complaint and conversation with the Respondent, the Superintendent will determine the nature of the inquiry that will be conducted, and may determine that the inquiry will be conducted through a process internal to the District, or through the services of an inquirer not connected to the District.
- 9.3. The decision of the Superintendent as to the nature of the inquiry will be communicated to the Respondent against whom the complaint has been made.
- 9.4. The Superintendent will ensure that the inquiry is conducted as expeditiously and thoroughly as possible, given the particular nature of the complaint.

10. Report of the Inquiry

- 10.1. The report of the inquiry shall be shared with the Respondent in a confidential manner. The only documented copy of the complaint to be retained by the District will remain in the Superintendent's or Designated Officer's office.

11. Potential Outcomes of the Inquiry

- 11.1. The Superintendent may refer portions of the report to legal advisors, members of the Executive, or the Director of Human Resources, and may consult confidentially with others (e.g. officers of associations) to assist in the determination of the appropriate action to be taken in respect of the complaint.
- 11.2. In the event that the Superintendent determines that the Board will need to be informed, the Superintendent will abide by any required language contained within in the personal contract of the excluded employee or collective agreement for unionized staff members.

12. Reporting Outcomes

- 12.1. Unless precluded by the Freedom of Information and Protection of Privacy Act ("FIPPA"), the Superintendent will advise the Complainant, in writing, of the general nature of its decision in regard to the complaint. The Complainant shall be informed of his or her right to make use of the services of the Ombudsman's Office, if desired.

Reference: Sections 17, 18, 20, 22, 23, 65, 85 School Act
Public Interest Disclosure Act
Employment Standards Act
Freedom of Information and Protection of Privacy Act
Human Rights Code
Labour Relations Code
Collective Agreements

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