

9645 DISCLOSURE OF WRONGFUL CONDUCT

The Board of Education expects officers and employees of the district to fulfill the public's trust and to conduct themselves in an 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 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.

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

Internal Reporting and Investigation

Employees and 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 the Board of Education, or the Superintendent of Schools (or designee) or School Attorney, Internal Auditor, External/Independent Auditor, or Audit Committee, who must notify the Board. 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. Upon receiving a report of alleged wrongful conduct, the Board, Superintendent, or designee may take immediate steps to authorize an investigation.

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 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 Board of Education. 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.

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, 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 and/or federal law, the Board-designated officer will 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 conducting an investigation of the specific allegations or taking corrective action.

The district will not 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).

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, in consultation with the school attorney, who 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 all of the above elements are present, the Superintendent or designee, or Board President or designee in consultation with the school attorney if the Superintendent is the subject of the report or allegation, will investigate the claim and make a recommendation to the Board. The Superintendent or designee will inform the complainant and the respondent, in writing, of:

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

Once the Superintendent or designee, or Board President or designee in consultation with the school attorney if the Superintendent is the subject of the report or allegation, 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 60 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 the Board and school attorney, if appropriate, will make a final determination and issue a letter of findings to both the complainant and the respondent.

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

False or malicious complaints may result in corrective or disciplinary action.

The Superintendent of Schools may establish regulations necessary to implement this policy.

This policy and any accompanying regulations will be published online in the district policy manual, employee handbooks and posted in employee lounges. The Assistant Superintendent for Finance and Operations will provide this policy to all employees with fiscal accounting and/or money handling responsibilities on an annual basis.

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

Ref: Civil Service Law §75-b

Education Law §3028-d

Labor Law §740

8 NYCRR §§102.3, 102.4 (testing misconduct)

Matter of Brey v. Bd. of Educ., 245 A.D. 2d 613 (3rd Dept. 1997) (termination based on work deficiency, not retaliation)

Adoption date: Adopted March 14, 2023

