

**DISCLOSURE OF WRONGFUL CONDUCT
(WHISTLEBLOWER POLICY)**

- Required**
 Local
 Notice

The Board of Education expects officers and employees of the District to fulfill the public's trust and to conduct themselves in an honorable 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 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 should report such wrongful conduct to the Board or one of its designated officers.

The Board of Education shall at its annual organization meeting designate a Compliance Officer to receive and investigate complaints under Section 75-b of the Civil Service Law, commonly referred to as the "Whistleblower" statute. The School District shall not dismiss, retaliate or take any other adverse personnel action against a public employee because the public employee, in good faith, discloses to a governmental body: (1) information regarding a violation of a law, rule, policy or regulation, which violation creates and presents a substantial and specific danger to the public health or safety; or (2) information concerning conduct which the employee reasonably believes to be true and reasonably believes constitutes wrongful or unlawful conduct by a public officer or employee.

For purposes of this policy, the term "wrongful conduct" shall be defined to include:

- theft of district money, property, or resources;
- misuse of authority for personal gain or other non-district purpose;
- fraud;
- 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.
- any potential wrongful or unlawful conduct, including a potential violation of a law, rule, policy or regulation.

Prior to disclosing information to a governmental body pursuant to this policy, the public employee shall have first made a good faith effort to give to the School District's Compliance Officer the information to be disclosed and shall provide the School District's Compliance Officer with a reasonable period of time to conduct an investigation and to take appropriate action, unless there is an imminent and serious danger to the public health and safety.

Disclosure and Investigation

Employees and officers who know or have reasonable cause to believe that wrongful conduct has occurred shall report such mismanagement, fraud or abuse to the Superintendent of Schools, the School Attorney or the Independent Auditor. Each of these Board-designated officers, upon receiving a report of alleged wrongful conduct, shall take immediate steps to conduct an investigation. The Superintendent of Schools or designated officers of the Board of Education shall maintain a written record of the allegation, conduct an investigation to ensure that the appropriate unit (auditors, police, SED, etc.) investigates the disclosure, and notify the Board of Education when appropriate to do so.

Staff members who suspect that a violation of state testing procedures has occurred shall report their concerns to the Building Principal, the Superintendent, or the State Education Department. Any Building Principal receiving such a report shall relay this information to the Superintendent.

The Superintendent, School Attorney or the Independent Auditor shall maintain a written record of the allegation, conduct an investigation to ensure that the appropriate unit (auditors, police, State Education Department, etc.) investigates the disclosure, and notify the Board when appropriate to do so.

Except as otherwise provided in either state and/or federal law, the Board or its designated officer shall make all reasonable efforts 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 shall not take adverse employment action against an employee who has notified the district of wrongdoing, allowing the District the opportunity to investigate and correct the misconduct, even in the event the District determines the claim not to fall within the definition of “wrongful conduct”.

Duty to Report

Any employee, contractor, or agent of the School District who believes that any practice or billing procedure related to Medicaid reimbursement of SSHSPs is inappropriate has an obligation, promptly after learning of such activities, to report the matter to the Assistant Superintendent for Business. Reports may be made anonymously and employees, contractors, and agents of the School District will not be penalized for reports made in good faith. Reports made by employees, contractors and/or agents to the Medicaid Compliance Officer shall remain confidential to the maximum extent permitted by law.

Any employee, contractor or agent of the School District, who believes that any practice or billing procedure related to Medicaid reimbursement of SSHSPs is inappropriate, may send information concerning such practice or billing procedure in writing to the State Compliance Officer by U.S. mail, courier service, e-mail or facsimile transmission. Disclosure may be made anonymously and such disclosure will remain confidential pursuant to the New York State Confidential Disclosure Policy, a copy of which is annexed to this regulation as Appendix A.

The contact information for the New York State Compliance Officer is:

Mr. Robert Jake Locicero, Compliance Officer
New York State Department of Health
(518) 474-5245
Robert.Locicero@health.ny.gov

Failure to report known or suspected violations, failure to detect violations due to negligence or reckless conduct, or intentionally, maliciously, or making false reports in bad faith shall be grounds for disciplinary action of employees, including termination; or immediate nullification of the contract with the applicable contractor or agent of the School District. The appropriate form of discipline will be case specific, and in accordance with the New York Education Law, the New York Civil Service Law and/or existing collective bargaining agreements.

Complaints of Reprisal

An employee who has been subject to an adverse employment action based on his or her prior disclosure of alleged or actual wrongful conduct may contest the action by filing a written complaint of reprisal with the Board President. The Board President, or his/her designee, will review the complaint expeditiously to determine:

- 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 the Board President or his/her designee determines that all of the above elements are present, he or she shall appoint a review officer or panel to investigate the claim and make a recommendation to the Board. At the time of appointment, the designee shall inform the complainant and the respondent, in writing, of:

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

Once the review officer or panel has conducted a review and considers the investigation to be complete, the review officer or panel will notify the designee of its completion. From the date of that notice, the review officer has thirty (30) days to report his or her findings and make any recommendations he or she deems appropriate to the designee. The designee, in conferral with the appropriate administrator, shall issue a letter of findings to both the complainant and the respondent.

The decision of the review officer or panel is binding.

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

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

This policy and accompanying regulations shall be published in employee handbooks, posted in employee lounges and given to all employees with fiscal accounting and/or money handling responsibilities on an annual basis.

The Superintendent of Schools and the appropriate personnel shall 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 accompanying regulations.

Ref: Civil Service Law §75-
b Labor Law §740
8 NYCRR §§102.3, 102.4

Adoption date: November 20, 2013
Amended: May 21, 2014, March 20, 2019