

## APPENDIX B



**POLICY SECTION:** ADMINISTRATION

**SUB-SECTION:**

**POLICY NAME:** WHISTLEBLOWER POLICY

**POLICY NO:** A. 39

<b>Date Approved:</b>	<b>Date of Next Review:</b>	<b>Dates of Amendments:</b>
September 21, 2017	September 2022	
<b>Cross References:</b> <i>Education Act, 1990, s. 301, 302</i> <i>Ontario Human Rights Code, 1990</i> <i>Occupational Health and Safety Act</i> <i>Municipal Freedom of Information and Protection of Privacy Act</i> <i>Criminal Code of Canada</i> Ontario Code of Conduct O. Reg. 521/01, Collection of Personal Information Code of Conduct S.S.09 Conflict Resolution H.M.19, Complaint Against a Staff Member H.M.30 Harassment and Discrimination Policy H.M.14 & Respectful Workplace Guidelines		
<b>Appendix—Whistleblower Policy Operational Procedure</b>		

### **Cross References:**

*Education Act, 1990, s. 301, 302*

*Ontario Human Rights Code, 1990*

*Occupational Health and Safety Act*

*Municipal Freedom of Information and Protection of Privacy Act*

*Criminal Code of Canada*

Ontario Code of Conduct

O. Reg. 521/01, Collection of Personal Information

Code of Conduct S.S.09

Conflict Resolution H.M.19,

Complaint Against a Staff Member H.M.30

Harassment and Discrimination Policy H.M.14 & Respectful Workplace Guidelines

### **Appendix—Whistleblower Policy Operational Procedure**

#### **Purpose:**

The Toronto Catholic District School Board (TCDSB) will achieve effective utilization and protection of all of its resources through sound application and management of financial systems and internal controls. These objectives will be achieved by adherence to generally accepted accounting principles, sound business practices and applicable Provincial and Federal Statutes and Regulations. Management will maintain comprehensive operational procedures to guide and safeguard both the TCDSB Community and assets in its day to day operations.

#### **Scope and Responsibility:**

This policy applies to all internal and external stakeholders of the TCDSB Community. This includes all individuals or organizations engaged in education or

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other activities while in TCDSB facilities or representing the TCDSB. The Director of Education is responsible for this policy.

### **Alignment with MYSP:**

Living Our Catholic values

Strengthening Public Confidence

Achieving Excellence in Governance

Inspiring and Motivating Employees

### **Policy:**

The Toronto Catholic District School Board (TCDSB) is committed to safeguarding the public interest and trust in public education. All internal and external stakeholders for the TCDSB Community are expected to uphold the public trust and demonstrate integrity in all of their dealings.

This Policy supports that commitment by providing a framework for the disclosure and investigation of wrongdoing, as well as protection from reprisal or threat of reprisal for those who make disclosures of information.

The Policy is intended to encourage TCDSB stakeholders at all levels of the organization and others to act with integrity. All persons to whom this policy applies are expected to adhere to the procedures outlined in this policy when making a disclosure and during any subsequent investigation.

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### **Regulations:**

1. Any act of alleged wrongdoing that is detected or suspected must be reported immediately and investigated in accordance with this policy as expeditiously as possible.
2. Any individual or employee who has knowledge of an occurrence of a wrongdoing, or has reason to suspect that a wrongdoing has occurred, has the right and obligation to report the occurrence using the channels of reporting provided under the various policies, procedures, and collective agreements. However, an individual or employee may choose to report the incident to a third party whistleblower hotline.
3. The third party whistleblower hotline will assess the nature of the reported alleged wrongdoing and redirect it to the appropriate authority for review and investigation, as required, based on criteria as set out in the Operational Procedure.
4. The TCDSB will provide information to ensure that internal and external stakeholders are familiar with the policy including a mechanism for concerned individuals to confidentially report actual or suspected instances of wrongdoing through a third party whistleblower hotline.
5. Provided there are reasonable grounds, the TCDSB shall investigate any and all incidents of suspected or alleged acts of wrongdoings. An objective and impartial investigation will be conducted regardless of the position, title, length of service, or relationship with the Board, of any party who becomes the subject of such investigation.

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6. The identity of the whistleblower shall remain confidential to the Director of Education, or designate, unless law enforcement obtains a court order compelling the Board to disclose the name of the whistleblower.
7. Responsibility for ensuring all reported allegations of wrongdoing are investigated rests with the Director of Education.
8. The Board shall make every effort to ensure that an individual or employee, who in good faith reports under this policy, is protected from harassment, retaliation or adverse employment or contract consequence.
9. An individual who retaliates against someone who has reported in good faith is subject to discipline, up to and including termination of employment or vendor/contractor services.
10. An individual or employee who makes an unsubstantiated report, which is knowingly false, frivolous, or made with vexatious or malicious intent, will be subject to discipline, up to and including termination of employment or vendor/contractor services.
11. No person shall willfully obstruct management or any others involved in an investigation of wrongdoing.
12. No person shall direct, counsel or cause in any manner any person to obstruct management or any others involved in an investigation of wrongdoing.
13. No person shall direct, counsel or cause in any manner any person to destroy, alter, falsify, or conceal a document or other thing they know or ought to know is likely relevant to an investigation of wrongdoing.

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14. When an alleged wrongdoing is confirmed by the investigation, appropriate action shall be taken, up to and including termination of employment and/or contract where appropriate.

15. In the event of criminal misconduct, the Police shall be notified immediately.

16. Annual budget provisions will be made to support compliance with the policy.

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### **Definitions:**

#### **Informant**

An informant is a person who exposes misconduct, alleged dishonest or illegal activity occurring in an organization.

#### **Wrongdoing**

Wrongdoing may be classified collectively as illegal or inappropriate conduct, i.e. a violation of a law, rule, regulation and/or a direct threat to public interest, such as fraud, health and safety violations, and corruption.

Wrongdoing includes but is not limited to:

- Fraud as defined in the Criminal Code of Canada (s. 380 (1)).
- Misappropriation of funds, supplies, resources, or other assets.
- Any computer related activity involving the alteration, destruction, forgery, manipulation of data or unauthorized access for wrongdoing purposes, in violation of the TCDSB policy on Electronic Communication System-Acceptable Use (A.29)
- Irregular and/or improper accounting, internal controls, or auditing practices or conduct.
- Conflicts of interest (personal or otherwise) influencing the objectives and decision-making of one's duties.
- An actual or suspected violation or contravention of any federal or provincial law, regulation, TCDSB policies or administrative procedures as it relates to the TCDSB.
- Conduct or practices that present a danger to the health, safety, or well-being of the Board's students, employees, or other parties, where applicable.
- Unprofessional conduct or conduct that contravenes the following TCDSB policies: Conflict of Interest: Employees (H.M.31); Conflict of Interest: Trustees (T.01); Code of Conduct (SS.09).

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- Knowingly directing or counselling a person to commit a wrongdoing of illegal or inappropriate conduct.

The above list is not exhaustive but is intended to provide guidance to individuals as to the kind of conduct that constitutes wrongdoing under this policy.

### **Reprisal**

A reprisal is any measure taken against an individual or employee who has reported wrongdoing that adversely affects his or her employment or appointment and includes but is not limited to:

- a. Ending or threatening to end an individual or employee's employment or appointment;
- b. Disciplining or suspending or threatening to discipline or suspend an individual or employee;
- c. Imposing or threatening to impose a penalty related to employment or appointment of an individual or employee; or
- d. Intimidating, coercing or harassing an individual or employee in relation to his or her employment or appointment.

### **Stakeholders**

“Stakeholders” includes trustees, TCDSB employees, and the general public, including parents and students.

### **Third Party Whistleblower Hotline**

An objective third party service offering a secure reporting tool and management system to support the Board’s mandate to implement an ethics and compliance reporting (whistleblowing), policy and procedure. The certified ethics reporting service protects individuals’ identities so they are more inclined to report alleged wrongdoing.

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### **Evaluation and Metrics:**

The effectiveness of the policy will be determined by measuring the following:

1. A report of the number and classification of disclosures of information and substantiation of reports and concerns including themes regarding the concerns shall be provided to the Board and Audit Committee quarterly.
2. A survey will be distributed annually to TCDSB internal and external stakeholders to assess satisfaction with the Whistleblower policy and its operational procedures. The results of this survey will be reported to the Board and the Audit committee on an annual basis.

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## OPERATIONAL PROCEDURE

This operational procedure supports the TCDSB's commitment to provide a framework for the disclosure and investigation of alleged wrongdoing to a third party whistleblower hotline as well as protection from reprisal or threat of reprisal for those who make disclosures of such information.

This operational procedure applies to all internal and external stakeholders of the TCDSB Community. This operational procedure extends to all individuals or organizations engaged in education or other activities while in TCDSB facilities or representing the TCDSB.

### **1. Reporting an Alleged Wrongdoing**

- (a) Any individual who has knowledge of an occurrence of a wrongdoing, or has reason to suspect that an alleged wrongdoing has occurred may report to the third party whistleblower hotline.
- (b) The third party whistleblower hotline will assess the nature of the report of the alleged wrongdoing and redirect it to the appropriate authority for review and investigation, as required, based on the following criteria:
  - (i) Where a Trustee or employee of the Board is suspected of the alleged wrongdoing, the reported information will be provided to the Director of Education or designate.
  - (ii) Where the Director of Education is suspected of alleged wrongdoing, the reported information will be provided to the Chair of the Board, who will report to the entire Board of Trustees. The investigation will be conducted by a third party investigator and reported to the entire Board of Trustees.

- (c) The informant can report their concerns to the third party whistleblower hotline via email, fax, mail, or phone.
- (d) The third party whistleblower hotline will collect the information from the informant, creating a unique case file for each matter reported. The information will be assessed and forwarded as per the Board policy.

## **2. Investigation of Suspicions or Allegations of Wrongdoing**

- (a) The Director of Education shall ensure that all instances of alleged wrongdoing are appropriately investigated and reported to the Audit Committee on a quarterly basis.
- (b) Investigations will be conducted in accordance with the appropriate Board policy.
- (c) The Director of Education, in consultation with the Board's legal counsel, may solicit the services of internal staff and/or external resources as appropriate.
- (d) Employees are expected to fully cooperate with management and any others involved in the investigation and make all reasonable efforts to be available to assist during the course of the investigation.
- (e) In the event that the investigation was conducted in good faith yet is not to the informant's satisfaction, he/she has the right to report the event to the appropriate legal or investigative agency. Any associated costs are the responsibility of the informant.
- (f) All participants in an investigation of an alleged wrongdoing, including persons who make a disclosure, witnesses, and the persons alleged to be responsible for wrongdoing, shall keep the details and results of the investigation confidential, and shall not discuss the matter with anyone other than those conducting the investigation. Any person who violates this confidentiality requirement will be subject to disciplinary measures up to and including suspension or termination.

### **3. Duty to Protect**

- (a) The identities of all participants in an investigation of wrongdoing, including persons who make a disclosure, witnesses, and the persons alleged to be responsible for wrongdoing will be protected and remain confidential unless it is a criminal matter and must be reported to the appropriate authorities.
- (b) The identity of the informant shall remain confidential to those persons directly involved in applying this policy, unless the issue requires investigation by law enforcement, in which case members of the organization are subject to subpoena.

### **4. Duty to Report**

- (a) In making a report, an individual or employee must be acting in good faith with reasonable grounds for believing that there is a grievous breach of a Board policy or federal or provincial law that relates to the safeguarding of the Board's assets as well as the Board's fiduciary responsibilities.
- (b) Any act of wrongdoing that is detected or alleged must be reported immediately and investigated in accordance with this policy as expeditiously as possible.

### **5. Prohibition Against Interfering with an Investigation**

- (a) Any person who willfully obstructs management or any others involved in an investigation of alleged wrongdoing is subject to disciplinary measures including suspension or termination.
- (b) No person shall destroy, alter, falsify, or conceal a document or other thing they know or ought to know is likely relevant to an investigation of alleged wrongdoing.
- (c) Any person, who destroys, alters, falsifies, or conceals a document or other thing they know or ought to know is likely relevant to the

investigation of alleged wrongdoing is subject to disciplinary measures, including suspension or termination.

**6. Prohibition Against Counseling Interference with an Investigation**

- (a) Any individual who directs, counsels or causes in any manner any individual to obstruct management or any others involved in an investigation of alleged wrongdoing is subject to disciplinary measures, including suspension or termination.
- (b) Any individual who directs, counsels or causes in any manner any individual to destroy, alter, falsify, or conceal a document or other thing they know or ought to know is likely relevant to an investigation of alleged wrongdoing is subject to disciplinary measures, including suspension or termination.

**7. Reporting Of A Complaint From An Individual Who Believes That They Have Suffered Or Are Suffering From Retaliation Or Reprisal**

- (a) An individual who feels that they are suffering reprisal resulting from making a complaint of alleged wrongdoing should contact the Superintendent of Human Resources or Director of Education.
- (b) The Third party whistleblower hotline may also be contacted where the individual who feels that they have suffered reprisal is uncomfortable with reporting the matter through the process noted in 7(a).

**8. Investigating A Complaint From An Individual Who Believes That They Have Suffered From Retaliation Or Reprisal**

- (a) The complaint will be processed as per Board policies and procedures related to the disposition of complaints.
- (b) An individual or employee who retaliates against someone who has reported in good faith is subject to discipline, up to and including termination of employment or vendor/contractor services.