

Toronto District School Board

Policy P066

Title: **REPORTING OF SUSPECTED WRONGDOING (WHISTLEBLOWING)**

Adopted: October 29, 2008

Effectuated: October 29, 2008

Revised: June 17, 2015; **June 17, 2016**

Reviewed: March 2012

Authorization: Board of Trustees

1. OBJECTIVE

- 1.1 To ensure ethical and professional conduct at the Toronto District School Board (Board) and to demonstrate the Board's commitment to maintaining and enhancing public confidence in the integrity of its trustees and employees;
- 1.2 To enable trustees, employees, and the general public, including parents and students, to raise concerns about suspected wrongdoing by a trustee or employee of the Board in respect to the business and operations of its schools, offices, and facilities;
- 1.3 To ensure protection against reprisal related to reporting of suspected wrongdoing.

2. RESPONSIBILITY

- 2.1 The Director of Education is responsible for establishing appropriate organizational structures, systems, practices, and controls to ensure compliance with this policy in relation to the Board's employees.
- 2.2 The Board of Trustees is responsible for the enforcement of this policy in relation to the Director of Education.
- 2.3 The Office of the Integrity Commissioner will deal with a complaint that a trustee has breached the Board Member Code of Conduct.

3. DEFINITIONS

3.1 *Reprisal* includes any harassment, intimidation, threats, or discipline against a person for making a report to the Board about a suspected wrongdoing by a trustee or employee of the Board in respect to the business and operations of its schools, offices, and facilities.

3.2 *Wrongdoing* means:

- a contravention of a federal or provincial act or regulation by a trustee or employee (for example: *Criminal Code of Canada*, *Education Act* and applicable regulations, etc.);
- an act or omission that creates danger to life, physical and mental health, safety of persons, or to the environment;
- mismanagement inconsistent with laws, regulations, and Board policies, including waste of financial resources, abuse of managerial authority, mismanagement, or loss/theft of public assets;
- financial fraud (e.g., an act of deception, manipulation, or trickery) in respect to the finances of the Board or a school/department operated by the Board;
- time theft (i.e., a fraudulent act where an employee collects pay for time not actually worked);
- deliberate non-compliance with Board policies and procedures; and
- directing or counseling a person to commit any of the above.

4. POLICY

4.1 This policy encourages anyone (including trustees, employees, the Board's permit holders, volunteers, students, parents, external organizations, and the general public) to report suspicions of wrongdoing by trustees or employees of the Board.

4.2 The Board is committed to the safety of the learning and working environments in all schools, offices, and facilities and the effective stewardship of its resources in accordance with all applicable laws.

4.3 The process for addressing and resolving a reporting of suspected wrongdoing must be neutral, appropriately independent, transparent, fair, and timely. This includes

- informing the person who filed the report of the manner in which the disclosure was addressed.
- 4.4 All employees and trustees are expected to act with honesty and integrity in the fulfillment of their responsibilities in accordance with the Board's codes of conduct, policies, and procedures.
- 4.5 The Board shall make every reasonable effort to discourage wrongdoing and shall establish and maintain internal controls to prevent and detect wrongdoing.
- 4.6 A person who reasonably suspects wrongdoing as defined in this policy is strongly encouraged to report the suspicion in accordance with section 4.11.
- 4.7 A report of suspected wrongdoing may be made anonymously. Anonymous allegations will only be acted upon if the evidence collected during the preliminary investigation indicates the disclosure can be properly investigated and is in the public interest.
- 4.8 The Board shall make every effort to ensure that a person, who in good faith brings forward suspicions of wrongdoing under this policy, and any associated persons, including witnesses, is protected from harassment, retaliation, or adverse employment or contract consequence.
- 4.9 All participants in an investigation of a suspected wrongdoing, including persons who make a report of suspected wrongdoing, witnesses, and the persons suspected to be responsible for wrongdoing, are expected to keep the details and results of the investigation confidential, and only discuss the matter with those conducting the investigation.
- 4.10 The Board shall make every effort to ensure that confidentiality is maintained at all stages of the investigation for all individuals directly involved in the process, unless the issue requires investigation by law enforcement or unless disclosure is required by law.
- 4.11 Reporting suspected wrongdoing:
- A person may submit information related to a suspected wrongdoing by an employee to an external third party through one of the following methods: designated email account, voice mail line or mail address as prescribed in the accompanying procedure.

- The external third party will assess the nature of the report of suspected wrongdoing and redirect it to the appropriate authority for review and investigation, as required, based on the following criteria:
 - Where an employee of the Board is suspected of wrongdoing, the reported information will be provided to the Director of Education or designate as prescribed in the accompanying procedure.
 - Where a member of the Senior Team is suspected of wrongdoing, the reported information will be provided to the Director of Education.
 - Where the Director of Education is suspected of wrongdoing, the reported information will be provided to the Chair of the Board of Trustees.
 - Information regarding suspected wrongdoing by a trustee (including the Chair of the Board) should be provided, in writing, directly to the Integrity Commissioner in accordance with the Complaint Protocol for the Board Member Code of Conduct.
- 4.12 Any person who knowingly and purposefully makes a false, frivolous, malicious, or vexatious report may be subject to legal proceedings to obtain redress. Any employee who knowingly and purposefully makes a false, frivolous, malicious, or vexatious report may be subject to discipline, up to and including dismissal.
- 4.13 A person who has reasonable grounds for believing he or she has suffered reprisal for making a complaint of suspected wrongdoing may make a complaint to the external third party as prescribed in the accompanying procedure.
- 4.14 An employee of the Board who retaliates against someone who has reported a suspected wrongdoing in good faith is subject to discipline, up to and including dismissal.
- 4.15 This policy does not affect or replace any duty to make a report that is required or permitted under legislation. This policy does not affect any rights under a collective agreement, legislation, the Ontario Human Rights Code, or the Canadian Charter of Rights and Freedoms. This policy does not supersede other Board policies, procedures, and protocols and a person making a report may be directed to use other available complaint resolution procedures and protocols.

5. SPECIFIC DIRECTIVES

The Director of Education has authority to issue operational procedures for reporting and investigating alleged wrongdoing involving employees.

6. REFERENCE DOCUMENTS

Policies:

Board Member Code of Conduct (P075)

Employee Conflict of Interest (P057)

Human Rights (P031)

Workplace Harassment (P034)

Workplace Violence Prevention (P072)

Procedures:

Board Code of Conduct (PR585)

Code of Online Conduct (PR571)

Complaint Protocol for the Board Member Code of Conduct (PR708)

Crisis and Incident Reporting (PR569)

Employee Conflict of Interest (PR673)

Freedom of Information (PR676)

Human Rights (PR657)

Parent Concern Protocol (PR505)

Promoting a Positive School Climate (PR697)

Reporting of Wrongdoing (Whistleblowing) Procedure (PR710)

Toronto District School Board

Operational Procedure PR710

Title: **REPORTING OF SUSPECTED WRONGDOING (WHISTLEBLOWING)**

Adopted: November 24, 2015

Effected: August 22, 2016

Revised: July 25, 2016

Reviewed: May 2016

Authorization: Executive Council

1.0 RATIONALE

This Reporting of Suspected Wrongdoing (Whistleblowing) operational procedure (the “Procedure”) is developed to support implementation of the Reporting of Suspected Wrongdoing (Whistleblowing) Policy (P066).

2.0 OBJECTIVE

To establish the process for reporting of suspected wrongdoing with regard to employees of the Toronto District School Board.

3.0 DEFINITIONS

- 3.1 *Board* is the Toronto District School Board, which is also referred to as the “TDSB”.
- 3.2 *External Third Party* means an independent and neutral service provider competitively procured by the Board to process and pre-screen reports of suspected wrongdoing prior to investigation.
- 3.3 *Parties Overseeing Investigation* means officials, i.e., Chair of the Board, Director of Education, and Executive Superintendent, Employee Services, who have authority to initiate investigation of suspected wrongdoing.
- 3.4 *Reprisal* includes any harassment, intimidation, threats, or discipline against a person for making a report to the Board about a suspected wrongdoing by a trustee or employee of the Board with respect to the business and operations of its schools, offices, and facilities.
- 3.5 *TDSB* is the Toronto District School Board, which is also referred to as the “Board”.

3.6 *Wrongdoing* means:

- a contravention of a federal or provincial act or regulation by a trustee or employee (for example: *Criminal Code of Canada*, *Education Act* and applicable regulations, etc.);
- an act or omission that creates danger to life, physical or mental health, safety of persons, or to the environment;
- mismanagement inconsistent with laws, regulations, and Board policies, including waste of financial resources, abuse of managerial authority, mismanagement, or loss/theft of public assets;
- financial fraud (e.g., an act of deception, manipulation, or trickery) with respect to the finances of the Board or a school/department operated by the Board;
- time theft (i.e., a fraudulent act where an employee collects pay for time not actually worked);
- deliberate non-compliance with Board policies and procedures; and
- directing or counseling a person to commit any of the above.

4.0 RESPONSIBILITY

Director of Education

5.0 APPLICATION AND SCOPE

- 5.1. This Procedure applies to reporting by persons (including trustees, employees, the Board's permit holders, volunteers, students, parents, external organizations, and the general public) of suspected wrongdoing by an employee of the Board in respect of the business and operations of the Board's schools, offices and facilities.
- 5.2. This Procedure does not apply to reporting of suspected wrongdoing with regard to trustees of the Board, which is governed by the Complaint Protocol for the Board Member Code of Conduct.

6.0 PROCEDURES

6.1. Reporting of Suspected Wrongdoing

- (a) Any act of suspected wrongdoing by an employee should be reported to the External Third Party.

- (b) Persons should report a suspected wrongdoing using one of the following confidential methods to be posted on the Board's website:
 - (i) Telephone Whistleblowing Hotline
 - (ii) Email
 - (iii) Direct Mail
- (c) The reporting should contain sufficient information and detail to clearly describe the situation and to enable assessment.
- (d) Persons making written submissions are encouraged to use form PR710A *Reporting Suspected Wrongdoing* (enclosed below in Appendix A).
- (e) The External Third Party will assess the nature of the report of suspected wrongdoing and redirect it to the appropriate authority for review and investigation, as required, based on the following criteria:
 - (i) Where an employee of the Board is suspected of wrongdoing, the reported information will be provided to the Executive Superintendent, Employee Services, acting as the designate of the Director of Education.
 - (ii) Where a member of the Senior Team is suspected of wrongdoing, the reported information will be provided to the Director of Education.
 - (iii) Where the Director of Education is suspected of wrongdoing, the reported information will be provided to the Chair of the Board of Trustees.
- (f) Anonymous reports of suspected wrongdoing will be accepted and investigated.

6.2. Investigation of Suspected Wrongdoing

- (a) The Executive Superintendent, Employee Services, the Director of Education, and the Chair of the Board, as appropriate, ("Parties Overseeing Investigation") shall initiate investigation of reports of suspected wrongdoing that have been determined as warranted investigation.
- (b) The Parties Overseeing Investigation will assess the reports of suspected wrongdoing to determine initially if the complaint falls under the definition of wrongdoing. The Parties Overseeing Investigation may determine that an investigation will not proceed in the following circumstances:
 - (i) the matter would more appropriately be dealt with through another existing process or protocol (e.g., Parent Concern Protocol (PR505), Handling Concerns About Learning Resources and Controversial Issues (PR532), Workplace Harassment (PR515), etc.)

- (ii) the matter is already being dealt with through another statutory process, e.g. a complaint already filed with the Ontario Human Rights Commission, or a law enforcement body;
 - (iii) the complaint expresses disagreement with a TDSB policy or procedure (the reporting of wrongdoing process is not designed to be an avenue for addressing disagreements with a policy decision);
 - (iv) the complaint is already subject to litigation or court proceedings;
 - (v) the complaint is related to an employment or labour relations matter that should be dealt with through another procedure;
 - (vi) the complaint is frivolous, vexatious or made in bad faith;
 - (vii) there is insufficient information to proceed.
- (c) The Executive Superintendent, Employee Services, may engage the services of internal staff and/or external resources, as appropriate, to investigate the suspected wrongdoing by Board employees (other than Senior Team members).
 - (d) The Director of Education shall engage an independent external investigator with regard to complaints involving Executives reporting directly to the Director of Education if it is determined that the report is warranted investigation. The Director of Education may engage the services of internal staff and/or external resources, as appropriate, to investigate the suspected wrongdoing involving other members of the Senior Team.
 - (e) The Chair of the Board shall engage an independent external investigator with regard to complaints involving the Director of Education if it is determined that the report is warranted investigation. The external investigator will be provided by the TDSB through the General Counsel. The General Counsel will not participate in the investigation.
 - (f) A person who is the subject of the complaint will be given an opportunity to respond to the allegations made against him/her and will be provided with information on the results of the investigation.

6.3. Outcome of Investigation

- (a) If a wrongdoing is confirmed by the investigation, appropriate disciplinary action shall be taken, up to and including termination of employment.
- (b) In the event of criminal conduct, the police shall be notified immediately.
- (c) Subject to the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA), the Parties Overseeing Investigation will notify the person who filed the report (unless it was anonymous) of the manner in which the complaint was addressed:
 - (i) not accepted, as the disclosure did not fall under definition of wrongdoing;

- (ii) accepted but not investigated under this Procedure, as the disclosure was defined as wrongdoing but would be managed under another procedure; or
- (iii) investigated and resolved, as the disclosure was defined as wrongdoing and investigated under this Procedure.

6.4. Interference with an Investigation

A person who wilfully obstructs an investigation of suspected wrongdoing may be subject to disciplinary measures, up to and including termination of employment and/or to legal proceedings to obtain redress.

6.5. Reprisal or Retaliation

- (a) A person who has reasonable grounds for believing he or she has suffered a reprisal can make a complaint to the appropriate Party Overseeing Investigation.
- (b) The Party Overseeing Investigation shall investigate complaints of reprisal engaging internal staff and/or external resources, as appropriate.
- (c) A person who retaliates against someone who reported a suspected wrongdoing in good faith is subject to discipline, up to and including termination of employment and/or to legal proceedings to obtain redress.
- (d) Under certain circumstances, when an employee believes that it would not be appropriate, given the nature of the allegations, to report a reprisal to the Executive Superintendent, Employee Services, he/she may submit this information directly to the Director of Education.

6.6. Retention of Records

- (a) All electronic and paper records obtained through the investigation must be treated as highly confidential and will only be accessed by authorized officials.
- (b) The Parties Overseeing Investigation will retain records related to the respective investigations of suspected wrongdoing.
- (c) Records will be retained for a term specified in the Board's records retention schedule, unless other legal requirements necessitate a longer term.
- (d) Upon expiry of the retention term, records will be disposed of securely so that they cannot be retrieved or reconstructed.

6.7. Reporting to the Board of Trustees

- (a) The Chair of the Board and the Director of Education will report in the fall of each year to the Board of Trustees on the complaints made and subsequent actions taken.
- (b) The report will include:

- (i) number and types of concerns raised;
- (ii) number and types of concerns investigated;
- (iii) outcomes of investigations;
- (iv) complaints of reprisal or failures to maintain confidentiality;
- (v) relevant litigation information.

7.0 EVALUATION

This operational procedure will be reviewed at a minimum every four (4) years after the effective date.

8.0 APPENDICES

Appendix A: Form 710A Reporting Suspected Wrongdoing

9.0 REFERENCE DOCUMENTS

Policies:

- Board Member Code of Conduct (P075)
- Employee Conflict of Interest (P057)
- Human Rights (P031)
- Reporting of Suspected Wrongdoing (Whistleblowing) (P066)
- Workplace Harassment (P034)
- Workplace Violence Prevention (P072)

Procedures:

- Board Code of Conduct (PR585)
- Code of Online Conduct (PR571)
- Complaint Protocol for the Board Member Code of Conduct (PR708)
- Crisis and Incident Reporting (PR569)
- Employee Conflict of Interest (PR673)
- Freedom of Information (PR676)
- Human Rights (PR657)
- Promoting a Positive School Climate (PR697)

Legislative Acts:

- *Municipal Freedom of Information and Protection of Privacy Act*



Reporting Suspected Wrongdoing

In accordance with the Reporting of Suspected Wrongdoing Policy (P066) and Operational Procedure (PR710)

The Toronto District School Board encourages trustees, employees and other individuals to raise concerns of suspected wrongdoing, in good faith, with protection from reprisal or retaliation.

All complaints will be investigated with strict confidentiality. The process has been designed to protect your identity when communicating your concern. The investigation of suspected wrongdoing will be most effective if your contact information is provided in the report. Please provide sufficient information especially if you submit an anonymous report.

Please submit your report or provide information to:

Online : www.integritycounts.ca

Phone: 1-866-921-6714

E-mail: tdsb@integritycounts.ca

PART A: REPORTER'S CONTACT INFORMATION

Association with the Board:

- Staff** ☐
Student ☐
Parent ☐
Other ☐ (please explain) _____

NAME	CONTACT PHONE #
ADDRESS	CONTACT EMAIL
BEST TIME/PLACE TO CONTACT YOU	

PART B: OTHER REPORTER OR WITNESS CONTACT INFORMATION (if applicable)

Association with the Board:

- Staff** ☐
Student ☐
Parent ☐
Other ☐ (please explain) _____

NAME	CONTACT PHONE #
ADDRESS	CONTACT EMAIL
BEST TIME/PLACE TO CONTACT THEM	

Reporting Suspected Wrongdoing

In accordance with the Reporting of Suspected Wrongdoing Policy (P066) and Operational Procedure (PR710)

PART C: REPORT OF SUSPECTED WRONGDOING

Briefly describe the alleged wrongdoing with details about when, where and how the wrongdoing occurred. If there is more than one allegation, number each allegation and use as many pages as necessary.

Date and Time of Submission (DD/MM/YY):

a) What wrongdoing occurred? Describe the incident(s) in detail.

b) When and where did this incident occur?

c) For how long has the wrongdoing been taking place?

d) Who committed the wrongdoing? Provide the individual's name and current position.

e) How did you come to know about this suspected wrongdoing?

Reporting Suspected Wrongdoing

In accordance with the Reporting of Suspected Wrongdoing Policy (P066) and Operational Procedure (PR710)

PART D: EVIDENCE

Please attach a copy of any evidence you may have in your possession; describe how an investigator could locate the evidence or supporting documentation for the matters described above; or, list any documentation that you are aware of that supports your allegation.

Note that you should **not** attempt to obtain evidence or access information protected under the *Municipal Freedom of Information and Protection of Privacy Act*.

PROVIDE ANY ADDITIONAL INFORMATION IN THE SPACE BELOW: