

NORTHPORT - EAST NORTHPORT UNION FREE SCHOOL DISTRICT

DISCLOSURE OF WRONGFUL CONDUCT

Policy 9645

The Board of Education expects officers and employees of the School District to fulfill the public's trust and to conduct themselves in an honorable manner, abiding by all School District policies and regulations and by all applicable state and federal laws and regulations.

However, when School District officers or employees know or have reasonable cause to believe that serious instances of wrongful conduct (e.g., mismanagement of School District resources, unethical behavior, violations of law or regulation, and/or abuse of authority) have occurred, they ~~are encouraged to should~~ report such wrongful conduct to the Board of Education or one of its designated officers. Alternatively, the officer/employee may report their concerns to a governmental entity or agency.

The Board of Education shall at its annual reorganization 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 School District money, property, or resources;
- misuse of authority for personal gain or other non-School District purpose;
- fraud;
- actions that compromise the security and integrity of the School District's or state's testing program;
- violations of applicable federal and state laws and regulations;
- violations of School District policy, regulation, and/or procedure; and/or
- 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 ~~is encouraged to shall have~~ first ~~make~~ 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.

In order to encourage the reporting of "wrongful or unlawful conduct" as defined herein, any officer or employee who wishes to remain anonymous may send an anonymous report to the Superintendent of Schools or ~~his/her~~ designee.

Disclosure and Investigation

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Employees and officers who know or have reasonable cause to believe that wrongful conduct has occurred, are encouraged to ~~shall~~ report such mismanagement, fraud or abuse to the Board of Education or the following Board of Education designated officers: internal auditor or school attorney. The Board of Education or its designated officers, upon receiving a report of alleged wrongful conduct, shall take immediate steps to conduct an investigation. The Board of Education of its designated officers 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 are encouraged to ~~shall~~ report their concerns to the Building Principal, the Superintendent of Schools, or the State Education Department. Any Building Principal receiving such a report shall relay this information to the Superintendent of Schools or directly to the Board of Education if the Superintendent of Schools is the subject of the report. The Superintendent of Schools or designee must ~~shall~~ maintain a written record of the allegation and results of any investigation, 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.

Except as otherwise provided in either state and/or federal law, the Board ~~designated officer shall~~ 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 School District will ~~shall~~ not take adverse employment action against an employee who has notified the School 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 pursuant to federal or state law or regulation, thereby allowing the School District the opportunity to investigate and correct the misconduct.

Complaints of Reprisal

An employee who has been subject to an adverse employment action based on a 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 of Education President. The Board of Education President, or his/her designee, will review the complaint expeditiously to determine:

- whether the complainant gave prior notice before making disclosure;
- 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;

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- 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.

The Board of Education, or its designee, shall conduct a full and fair investigation of the complaint. If the Board of Education has delegated the investigation to a designee, such designee shall make proposed findings of fact and a recommendation directly to the Board of Education as to what relief, if any, ~~deemed he or she deems~~ appropriate if ~~there is a finding he/she finds~~ that complainant has been retaliated against for disclosing information pursuant to this policy. If the 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 of Education. 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 officer or panel will notify the designee of its completion. From the date of that notice, the review officer will have thirty (30) days to report his or her findings and make any recommendations ~~deemed 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.

Given the nature of the type of information shared pursuant to this policy and the serious ramifications that may result from a complaint, the School District recognizes that false accusations of wrongful or unlawful conduct can have serious effects on innocent people. Nothing in this policy is intended to interfere with legitimate employment decisions. All complaints filed pursuant to this policy will remain confidential to the extent possible and subject to applicable laws and relevant provisions of collective bargaining agreements.

This policy 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.

Cross Ref: 2160 School District Officer and Employee Code of Ethics
9410 Staff Complaints and Grievances

Ref: Civil Service Law §75-b
Labor Law §740

- DRAFT REVISED POLICY -

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Adoption Date: May 3, 2018