

1. INTRODUCTION

Disclosure of wrongdoings is fundamental to ensuring the integrity of the public administration. Understanding that «people who work in an organization or with an organization are often the best-placed to become whistleblowers»¹, the goal of this Procedure is to establish a mechanism which will facilitate the disclosure of wrongdoings in school boards through the application of the *Act to Facilitate the Disclosure of Wrongdoings Relating to Public Bodies* (LQ 2016, c 34), hereinafter called « the Act ».

For personnel of public bodies, the Act establishes a parallel system of disclosure within their organizations and with the Public Protector to allow a whistleblower to choose which path to use to disclose information he/she has about a wrongdoing. Third parties may also make a disclosure directly to the Public Protector.

In all cases, the Act sets an overall plan to protect against reprisals persons disclosing information and those who are involved in an audit (examination of a disclosure by the Designated Officer) or investigation (by the Public Protector).

2. APPLICATION

This procedure applies to the disclosure by employees of wrongdoings committed or about to be committed with regard to a school board.

3. REFERENCE FRAMEWORK

Act to facilitate the Disclosure of Wrongdoings relating to Public Bodies (RLRQ c. D-11.1)

Anti-Corruption Act, RLRQ c. L-6.1.

Act respecting Labour Standards, RLRQ c. N-1.1.

Act respecting Access to Documents held by Public Bodies and the Protection of Personal Information, RLRQ, c. A-2.1.

The Code of Ethics and Professional Conduct applicable to Commissioners of LBPSB, where applicable;

The LBPSB Management Code of Behaviour, where applicable. 2.e 0 Tc 0 T4 (t3r)6Tc [2.]12

« Employee »: any person who, on a permanent or occasional basis, is employed by the school board and receives a salary/remuneration. Employees will benefit from the protection against reprisals if they disclose under the Act to the Designated Officer or to the Public Protector.

« Reprisal »: Any prejudicial action taken against a person who, in good faith, disclosed a wrongdoing or cooperated in an audit (examination of a disclosure) or investigation conducted as a result of a disclosure.

Also considered a reprisal is threatening a person so that he/she will abstain from making a disclosure or from cooperating in an audit (examination of a disclosure) or investigation.

In terms of employment, the following are considered reprisals: demotion, suspension, dismissal or transfer of a person or any other disciplinary measure or measure that adversely affects such a person's employment or conditions of employment. (Ref s. 31 (1)).

5. OPERATIONAL STRUCTURE

5.1 Responsible for the Application

Under the act, the Council of Commissioners is the highest ranking administrative official in the school board and may delegate the duties and functions to be performed under this Act to the Director General.

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Lastly, the School Board must include in its annual report the information contained in s.25 of the Act.

No judicial proceedings may be brought against a Designated Officer for any act done in good faith in the exercise of the functions of office. (Ref s. 27)

The School Board may designate more than one Officer to deal with disclosures. The official designation ensures the immunity with regard to the Act and allows the Designated Officer to communicate with the Public Protector regarding his/her mandate.

6. DISCLOSURE OF WRONGDOINGS

6.1 Disclosing to the Designated Officer

School board employees may, at any time, disclose to the Designated Officer any wrongdoing committed or about to be committed with regard to the school board. The procedure to follow for such disclosure is outlined in this document. (Ref s. 6)

6.2 Disclosing to the Public Protector

Any person, at any time, may disclose to the Public Protector any wrongdoing committed or about to be committed with regard to the school board.

A school board employee may, if he or she prefers, convey a disclosure to the Designated

Secure forms on the website: www.divulgation.protekteurducitoyen.qc.ca

6.3 Disclosure of Confidential Information

As part of a disclosure or involvement in an audit (examination of a disclosure) conducted as a result of a disclosure of wrongdoing, a person may transmit information to the Designated Officer or the Public Protector:

- Despite the provisions regarding the communication of information found in the *Act respecting Access to Documents held by Public Bodies and the Protection of Personal Information*, (RLRQ, chapter A-2.1); (Ref s. 8)
- Despite any other restriction regarding communication provided for in a statute and all binding obligations of confidentiality and loyalty with respect to an employer or where applicable, to a client. This suggests the possibility that professional secrecy may be lifted, with the exception of lawyer-client and notary-client.

7. FILING A DISCLOSURE

7.1 Manner in which a Disclosure is to be Filed

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- Department in which the person holds the position;
- Contact information;
- About the alleged wrongdoing:
 - Description of the facts, event or action;
 - What makes it a wrongdoing;
 - Location and date it took place;
 - Repetitive nature of the wrongdoing, if applicable;
 - Other persons involved in, or witnesses to, the wrongdoing and their full names, title or position, contact information;
 - Any documents or evidence regarding the wrongdoing;
 - Possible consequences of the wrongdoing on the school board, on the health and safety of people or on the environment;
 - The information needed to prevent the wrongdoing if it has not already been committed;
- Information about whether other steps have been taken with the management, the union or other school board employees.
- Mention of fear or threat of reprisals.

When needed, the Designated Officer will conduct appropriate verifications to complete missing information.

8. PROCESSING DISCLOSURES

8.1 Time Delays

8.1.1 Acknowledgement of Receipt

The Designated Officer will send an acknowledgment of receipt to the person disclosing a wrongdoing within 5 days of receiving the disclosure.

The Designated Officer will not acknowledge receipt if he/she does not have the information needed to communicate confidentially with the person disclosing a wrongdoing.

8.1.2 Determining the Admissibility of a Disclosure

The Designated Officer will decide whether the disclosure is admissible in accordance with s. 8.2 of the present Procedure within 15 working days of receiving the disclosure.

8.1.3 Audit (Examination of a Disclosure by the Designated Officer)

The Designated Officer will verify in accordance with s. 9 of the present Procedure. If this extends beyond 60 days after receipt of the disclosure, the Designated Officer will inform the person who disclosed the wrongdoing. Thereafter, the Designated Officer will inform him/her on the progress every 90 days until the audit is done. These notices are given in writing.

8.2 Disclosure is Not Admissible

At any time, the Designated Officer must put an end to the processing of

8.3 Forwarding Information to a Body Responsible for the Prevention, Detection or Repression of Crime or Statutory Offences

If the Designated Officer considers that information disclosed to him/her may be disclosed under s. 26 of the *Anti-Corruption Act*, he/or she forwards the information, as soon as possible, to the Anti-Corruption Commissioner.

The Designated Officer also forwards the information necessary to prosecute an offence under an Act to a body responsible for the prevention, detection or repression of crime or statutory offences, including a police force or a professional order. (Ref s. 23)

The Designated Officer must provide the person affected by a disclosure of wrongdoing information on the nature of the allegations against him/her and the opportunity to respond to them. (Ref s. 10 (5)) However, the identity of the person who made the disclosure or persons cooperating in an audit or investigation must not be revealed nor any information that could identify them.

The person affected by the disclosure of wrongdoing may be accompanied by someone of his/her choice during any meeting or discussion with the Designated Officer, as the case may be.

9.4 Obstruction of an Examination

The Act makes anyone who hinders or attempts to hinder a Designated Officer in the exercise of the functions of office, refuses to provide any information or a document they are required to provide or refuses to make it available, or conceals or destroys any document relevant to an investigation guilty of an offence and liable to a fine of \$4,000 to \$20,000. The amounts are doubled for a subsequent offence. (Ref s.34)

If the Designated Officer believes that his/her examination into a wrongdoing is

That access to all documents relating to a disclosure of wrongdoing or to verifications, in whatever form they may be, be limited to the Designated Officer. Physical documents must be kept under lock and key and not left in full view. Electronic documents are maintained in directories accessible only to authorized persons;

That all discussions between the Designated Officer and persons who disclose wrongdoing, persons cooperating in the examination and persons affected by the disclosure take place in a private location where they cannot be overheard by third parties;

That discussions between the Designated Officer and persons who disclose wrongdoing, persons cooperating in the examination and persons affected by the disclosure be protected by signing confidentiality agreements;

That the method of transferring documents containing information relating to a disclosure or to verifications take into the account the high level of confidentiality of the said documents;

That all documents relating to a disclosure of wrongdoing or verifications be destroyed by confidential redaction according to the calendar of conservation. The files of the Designated Officer are confidential. No one has the right to access or rectify any information communicated to the Designated Officer despite ss. 9, 83 and 89 of the *Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information*. (Ref s. 21)

10.1 Confidentiality Obligations of School Board Employees

The Council of Commissioners and anyone whom the Designated Officer retains to process disclosures of wrongdoing are held to the same confidentiality obligations and must exercise the same degree of discretion as the Designated Officer. The purpose is to protect the confidentiality of information that could be received regarding the procedure for disclosure, processing of the disclosures received, and especially the identity of the persons involved in the process.

11. PROTECTION AGAINST REPRISALS

11.1 Prohibition against Reprisals

The Act prohibits a reprisal be taken against a person or threaten to be taken on the grounds that the person has, in good faith, made a disclosure or cooperated in an audit or investigation conducted on the basis of a disclosure.

The Act makes it an offence punishable by a fine of \$2,000 to \$20,000 in the case of a natural person and to a fine of \$10,000 to \$250,000 in all other cases.

11.2 Protection Against Reprisals

Any person who believes a reprisal has been taken against him/her should file a complaint with the Public Protector who will see to the matter. (Ref s. 32) The Public Officer will refer a person who has been a victim of a reprisal to the Public Protector.

If the reprisal affects a person's employment, the employee must inform his/her union and to the Commission des normes, de l'équité, de la santé et de la sécurité du travail.

11.3 Recourse against a Reprisal in the Workplace

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APPENDIX 1: PREFERRED METHOD OF COMMUNICATION

The method of communication preferred in order to make a disclosure of wrongdoing and communicate with the Designated Officer in total confidentiality in accordance with s. 7.1 of the present Procedure is as follows:

Disclosure Form in Appendix 2:

- o Available on the school board's website;
- o To be completed and printed, providing all information available to the person disclosing a wrongdoing;
- o Send to the Designated Officer:

In a sealed envelope clearly indicating “ CONFIDENTIAL”

By mail or internal mail to the following address:

Lester B. Pearson School Board
Secretary General – CONFIDENTIAL
1925 Brookdale Avenue
Dorval, Québec
H9P 2Y7

APPENDIX 2: DISCLOSURE FORM

Disclosure of Wrongdoings

According to the Procedure to Facilitate the Disclosure of Wrongdoings

To be completed and printed, providing all information available to the person disclosing a wrongdoing. Send in a sealed envelope that states "Confidential", by mail or internal mail, to:

Lester B. Pearson School Board
 Secretary General – CONFIDENTIAL
 1925 Brookdale Avenue
 Dorval, Québec
 H9P 2Y7

IDENTIFICATION

Name

Given name

Are you a member of the staff of the school board?.

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DESCRIPTION OF THE FACTS	
Describe the facts:	_____
How is this a wrongdoing?	_____
DESCRIPTION OF THE FACTS (cont'd)	
Possible consequences for the school board, health or safety of persons or the environment:	_____
If the wrongdoing has not yet occurred, is it still possible to prevent it?	_____

