

# PROTECTED DISCLOSURE

Reviewed May 2014 (Tracy/Donal)

## ACTION

To provide information and guidance to employees of the school who wish to report serious wrongdoing within the school in compliance with the Protected Disclosures Act 2000.

## GUIDELINES

1. A protected disclosure is a declaration made by an employee where they believe serious wrongdoing has occurred. Employees making disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure.
2. Definition of Serious Wrongdoing  
Serious wrongdoing for the purposes of this policy includes any of the following:
  - Unlawful, corrupt, or irregular use of public funds or resources
  - An act or omission or course of conduct:
    - Which seriously risks public health or safety or the environment; or
    - That constitutes an offence; or
    - That is oppressive, improperly discriminatory, grossly negligent or constitutes gross mismanagement; or
    - Constitutes serious risk to the maintenance of law
3. Before making a disclosure the employee should ensure:
  - The information is about serious wrongdoing in or by the school, and
  - The employee believes on reasonable grounds the information to be true or is likely to be true; and
  - The employee wishes the wrongdoing to be investigated; and
  - The employee wishes the disclosure to be protected
4. Any employee of the school can make a disclosure. For the purpose of this policy this includes:
  - Current employees and principal
  - Former employees and principals
  - Contractors supplying services to the school
  - Volunteers working in the school under agreement
5. An employee who makes a disclosure and who has acted in accordance with the procedure outlined in this policy:
  - May bring a personal grievance in respect of retaliatory action from their employers;
  - May access the anti-discrimination provisions of the Human Rights Act in respect of retaliatory action from their employers
  - Are not liable for any civil or criminal proceedings, or to a disciplinary hearing by reason of having made or referred to a disclosure;
  - Will, subject to Clause 5 of the procedure, have their disclosure treated with the utmost confidentiality.

The protections provided in this section will not be available to employees making allegations they know to be false, or where they have acted in bad faith. The act does not protect you if you disclose information to the media or a member of parliament other than the Minister of the Crown following the procedures outlined below.

## 6. Procedures:

- a. If on reasonable grounds you believe you have information that a serious wrongdoing is occurring (or may occur) within the school and you wish to disclose that information so it can be investigated you can make a protected disclosure to the principal (nominated by the board under the provision of Section 11 of the Protected Disclosures Act 2000 for this purpose).
- b. This should be done in writing. You should identify that the disclosure is being made under the protected Disclosures Act and is following the board procedure, provide detail of the complaint (disclosure), and who the complaint is against. You can include details relating to time and/or place of the wrong doing is known or relevant.
- c. If you believe the principal is involved in the wrongdoing, or has an association with the person committing the wrongdoing that would make it inappropriate to disclose to them, then you can make the disclosure to the chairperson of the board of trustees.
- d. If you believe that both the principal and the chairperson of the board of trustees may be a party to the wrongdoing or in close relationship with the person/s involved in the wrongdoing you can approach an external "appropriate authority" direct yourself (*including but not limited to: Commissioner of Police, Controller and Auditor General, Director of the Serious Fraud Office, Inspector General of Intelligence and Security, Ombudsman, Parliamentary commissioner for the Environment, Police Complaints Authority, Solicitor General, State Service Commissioner, Health an Disability Commissioner and the head of every public sector organisation.*
- e. After the disclosure is made, the Principal/Board Chair must decide within 20 working days if the disclosure constitutes a serious wrongdoing, and that the allegations need investigating. They can decide:
  - a. To investigate the disclosure themselves
  - b. To forward the disclosure to the board or a committee of the board to investigate
  - c. Whether it needs to be passed on to an appropriate authorityThis decision will be communicated to the person making the disclosure.
- f. All disclosures will be treated with the utmost confidence. When undertaking an investigation and when writing the report, the Principal/Board Chair will make every endeavour not to reveal information that can identify the disclosing person. This is unless the person consents in writing or if the person receiving the protected disclosure reasonably believes that disclosure of identifying information is essential ie to ensure effective investigation, to prevent serious risk to public health/safety/environment, to have regard to the principles of natural justice.
- g. At the conclusion of the investigation the Principal/Board Chair or appropriate authority if used, will prepare a report of the investigation with recommendations for action if appropriate. The report will be communicated to the employee making the disclosure and forwarded to appropriate authorities if relevant or deemed appropriate.
- h. A disclosure can be made to a Minister or an Ombudsman if the employee making the disclosure
  - Believes the school personnel/authority is or may be involved in the wrong doing
  - Believes immediate reference to another authority is justified by urgent circumstances
  - Has followed the internal procedures outlined in this policy
  - Believes that these have not been followed up within a reasonable timeframe or twenty days
  - Has not been advised of the investigation outcome or recommended actions
  - Continues to believe on reasonable grounds that the information disclosed is true or likely to be true