COMMISSION SCOLAIRE SIR-WILFRID-LAURIER
SIR WILFRID LAURIER SCHOOL BOARD

Policy nº 2018-CA-23:	**Procedure to Facilitate the Disclosure of Wrongdoings**
Approved: Resolution nº	**CC-180228-CA-0080**

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NOTE: The masculine gender, when used in this document, refers to both women and men. No discrimination is intended.

1.0 PREAMBLE

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 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* (CQLR, c. D11.1), hereinafter referred to as "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 person to choose which path to use to disclose information he has about a wrongdoing. Third parties may also make a disclosure directly to the Public Protector.

In all cases, the Act sets an overall regime to protect against reprisals the person disclosing information and those who are involved in an audit or investigation.

2.0 APPLICATION

This procedure applies to the disclosure of wrongdoings committed or about to be committed in relation to a school board.

3.0 REFERENCE FRAMEWORK

- *Act to facilitate the disclosure of wrongdoings relating to public bodies* (CQLR, c. D-11.1)
- *Anti-corruption act* (CQLR, c. L-6.1)
- *Act respecting labour standards* (CQLR, c. N-1.1)
- *Act respecting access to documents held by public bodies and the protection of personal information* (CQLR, c. A-2.1)
- *Code of Ethics and Professional Conduct for Commissioners of the Sir Wilfrid Laurier School Board* (by-law no. BL2009-CA-17)
- *Code of Conduct for Employees of the Sir Wilfrid Laurier School Board* (policy no. 2011-HR-08)

4.0 DEFINITIONS

Wrongdoing includes:

- a contravention of a Québec law, of a federal law applicable in Québec or of a regulation made under such a law;
- a serious breach of ethical and professional standards;
- a misuse of school board funds or property, including that which it manages or holds for others;
- gross mismanagement within the school board, including an abuse of authority;
- an action or omission that seriously compromises or has the potential of seriously compromising a person's health or safety or the environment;
- directing or encouraging a person to commit a wrongdoing as described above.

Wrongdoings include, in particular, those committed by a staff member of a public body in the performance of his duties or by any person, partnership, group or other entity in the preparation or performance of a

[1] Commission d'enquête sur l'octroi et la gestion des contrats publics dans l'industrie de la construction, *Rapport final, Tome 3 : Stratagèmes, causes, conséquences et recommandations*, 2015, p. 109.

contract, including a grant of financial assistance, that has been entered into or is about to be entered into with the school board.

Staff member: Any person who, on a permanent or occasional basis, is employed by the school board and receives a salary.

For the purposes of this procedure, persons who participate in the mission of the school board by holding office, performing a function, a job or another task are also considered staff members, whether they are remunerated or not. These persons are normally commissioners who sit on Council and other school board committees, as well as volunteers who work in the schools.

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

Also considered a reprisal is threatening a person so that he will abstain from making a disclosure or from cooperating in an audit or investigation.

In terms of employment, the following are presumed 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.: section 31, para. 1)

5.0 OPERATIONAL STRUCTURE

5.1 Officer Responsible for Applying Procedure

For the purposes of this procedure, the Council of Commissioners may delegate to the Director General the duties to be performed by the highest-ranking administrative official in the school board.

The Director General or Council must designate an individual as the officer responsible for dealing with such disclosures (the "Designated Officer").

The mandate of the Designated Officer is to ensure the application and dissemination of this procedure.

When the Designated Officer receives disclosures from staff members, he must conduct an investigation to determine if a wrongdoing was committed or is about to be committed and, where applicable, report the findings to the Director General.

The Designated Officer forwards to the Public Protector the disclosures on which the latter is likely to follow up, in accordance with article 8.3 of this procedure.

The Designated Officer is bound to confidentiality in exercising the functions of office and must ensure that the identity of the person disclosing information and the information itself remain confidential. (ref.: section 21)

Lastly, the information contained in section 25 of the Act is made public once a year.

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.: section 27)

If needed, the Designated Officer may retain associates to deal with disclosures, provided that such person agrees to be bound by confidentiality requirements equivalent to those that apply to the Designated Officer.

6.0 DISCLOSURE OF WRONGDOINGS

6.1 Disclosing to the Designated Officer

School board staff members may, at any time, disclose to the Designated Officer any wrongdoing committed or about to be committed in relation to the school board. (ref.: section 6) The procedure to follow for such disclosures is outlined in this document.

6.2 Disclosing to the Public Protector

A person may, at any time, disclose to the Public Protector any wrongdoing committed or about to be committed in relation to the school board.

A school board staff member may, if he prefers, make a disclosure to the Designated Officer within the school board or to the Public Protector, at his discretion. (ref.: section 6)

Contact information of the Designated Officer:

Vincent Guida, lawyer
Ethics Commissioner
vincentg@holmsted.ca
514 874-2000, ext. 231

Contact information of the Public Protector:

Direction des enquêtes sur les divulgations en matière d'intégrité publique
Protecteur du citoyen
800, place D'Youville, 18e étage
Québec (Québec) G1R 3P4
Telephone: 1 844 580-7993 (toll free in Québec)
Fax.: 1 844 375-5758 (toll free in Québec)
Secure electronic forms: www.divulgation.protecteurducitoyen.qc.ca

6.3 Disclosing Confidential Information

As part of a disclosure or audit conducted as a result of a disclosure of wrongdoing, a person may transmit information to the Designated Officer or the Public Protector, and may do so:

- despite the provisions regarding the communication of information set out in the *Act respecting access to documents held by public bodies and the protection of personal information* (CQLR, c. A-2.1); (ref.: section 8)

- despite any other communication restrictions under a law and any duty of confidentiality or loyalty that may be binding on the person, including toward an employer or, if applicable, a client. This suggests the possibility that professional secrecy may be lifted, with the exception of professional secrecy between a lawyer or a notary and his client.

7.0 MAKING A DISCLOSURE

7.1 Manner in Which a Disclosure Is to Be Made

The Designated Officer must take the necessary steps to facilitate the disclosure of a wrongdoing while ensuring the confidentiality of communications.

The Designated Officer shall determine the method preferred for making a disclosure and communicating with him confidentially and shall so inform staff members. This method is described in Appendix 1.

7.2 Anonymous Disclosures

A person disclosing a wrongdoing to the Designated Officer must identify himself and indicate the manner in which he learned about the information disclosed.

A person wishing to disclose information anonymously must do so to the Public Protector in accordance with article 6.2 of this procedure. The Designated Officer must forward all anonymous disclosures to the Public Protector unless forwarding the disclosed information is found to be inadmissible in accordance with article 8.2 of this procedure.

7.3 Content of a Disclosure

A disclosure made to the Designated Officer should contain the following information:

- **About the person disclosing the information:**
  - Contact information for confidentially communicating with him in writing

- **About the persons involved in the alleged wrongdoing:**
  - Full name
  - Professional title or position held
  - Department in which the persons hold this position
  - Contact information

- **About the alleged wrongdoing:**
  - Description of facts, event or act committed
  - What makes it a wrongdoing
  - Location and date of event or act
  - Repetitive nature of the wrongdoing, if applicable
  - Other persons who were involved in or witnessed the wrongdoing
  - Name and given name, title or position, and contact information of these people
  - Any documents or evidence regarding the wrongdoing
  - Possible consequences of the wrongdoing for the school board, the health and safety of people or the environment
  - All information needed to prevent the wrongdoing if it has not already been committed:
    - Information about whether other steps have been taken with management, the union or other school board staff members
    - Mention of fear or threat of reprisals

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

8.0 PROCESSING DISCLOSURES

8.1 Time Frame

8.1.1 Acknowledgement of Receipt

The Designated Officer will send an acknowledgement of receipt to the person disclosing a wrongdoing within five (5) working days of receiving the disclosure.

The Designated Officer will not acknowledge receipt if he 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 article 8.2 of this procedure within fifteen (15) working days of receiving the disclosure.

The Designated Officer may always terminate the processing or review of a disclosure if subsequent verifications reveal that it is not admissible.

8.1.3 Investigation

The Designated Officer will conduct an investigation in accordance with article 9 of this procedure. If the investigation extends beyond sixty (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 on the progress every ninety (90) days until the investigation is completed. These notices are given in writing.

8.2 Non-admissible Disclosures

At any time, the Designated Officer must put an end to the processing of a disclosure if the alleged wrongdoing is the subject of court proceedings or relates to a decision rendered by a court.

In addition, the Designated Officer may end the examination of a disclosure if, in his opinion:

(1) the subject-matter of the disclosure does not fall within his mandate;
(2) the disclosure is made for personal reasons and is not in the public interest (for example, it deals with a working condition of the person making the disclosure);
(3) the subject-matter of the disclosure questions the merits of the policies and program objectives of the Government, the school board or another public body;
(4) the disclosure is frivolous.

The Designated Officer may also end the examination of a disclosure if it relates to facts, events or circumstances that occurred more than one (1) year prior to the date of the disclosure.

When putting an end to the processing or examination of a disclosure, the Designated Officer must send a notice, including the reasons for this decision, to the person who made the disclosure.

8.3 Transferring a Disclosure to the Public Protector

The Designated Officer will forward a disclosure to the Public Protector if, in the Officer's opinion, the Public Protector is better suited to deal with it, given the circumstances. The Designated Officer will contact the Direction des enquêtes sur les divulgations en matière d'intégrité publique to discuss the terms of the transfer to the Public Protector. (ref.: section 22)

The Public Protector may be better suited to follow up on a disclosure of wrongdoing if an in-depth investigation is required or if a subpoena is needed to compel a person to provide information or produce documents.

The Designated Officer will inform the person disclosing the wrongdoing of the transfer.

8.4 Forwarding Information to a Body Responsible for Preventing, Detecting or Repressing Crime or Statutory Offences

If the Designated Officer considers that information disclosed to him may be disclosed under section 26 of the Anti-Corruption Act, he shall forward the information, as soon as possible, to the Anti-Corruption Commissioner.

The Designated Officer shall also forward the information necessary to prosecute an offence under an act to a body responsible for preventing, detecting or repressing crime or statutory offences, including a police force or a professional order. (ref.: section 23)

The Designated Officer shall put an end to the examination or processing of the disclosure, or continue it, according to the terms agreed to with the body to which he has forwarded the information.

If the Designated Officer considers it appropriate, he shall notify the person who made the disclosure that the information has been forwarded.

9.0 VERIFICATION BY THE DESIGNATED OFFICER

9.1 Verification by the Designated Officer

On receipt of an admissible disclosure of wrongdoing, the Designated Officer must verify whether a wrongdoing has been committed or is about to be committed with regard to the school board.

9.2 Reporting to the Director General

The Designated Officer must keep the Director General informed of the steps taken unless, in the Designated Officer's opinion, the disclosure is likely to implicate the Director General. (ref.: section 24)

The Designated Officer must take the measures necessary to ensure that any information communicated to him, including the identity of the person who made the disclosure, remains confidential. (ref.: section 21)

9.3 Rights of a Person Involved in a Disclosure of Wrongdoing

The Designated Officer must protect the rights of the person involved in a disclosure of wrongdoing while the investigation is underway and give him the opportunity to present his version of the facts. (ref.: section 10, para. 4)

The Designated Officer must provide the person involved in a disclosure of wrongdoing the necessary information informing him of the nature of the allegations against him and the opportunity to respond to them (ref.: section 10, para. 5). However, the identity of the person who made the disclosure or persons cooperating in an audit and investigation must not be revealed nor any information that could identify them.

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

9.4 Obstruction to an Investigation

Under the Act, anyone who hinders or attempts to hinder the efforts of the Designated Officer in the performance of his duties, 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 is guilty of an offence and liable to a fine of $4,000 to $20,000. The amounts are doubled for a subsequent offence. (ref.: section 34)

If the Designated Officer believes that his investigation into a wrongdoing is being impeded, he may transfer the file to the Public Protector. If need be, the Public Protector may choose to put an end to the processing of the disclosure in accordance with the conditions agreed upon with the Public Protector. (ref.: section 22, para. 2)

9.5 Findings of an Investigation

When the Designated Officer finds that a wrongdoing has been committed or is about to be committed, he shall report this to the Director General who will take the necessary corrective measures, where applicable. (ref.: section 24, para. 2)

The Designated Officer shall inform the person who disclosed the wrongdoing that the processing of his disclosure is terminated. If considered appropriate, the Designated Officer may inform this person of any follow-up given to the disclosure. (ref.: section 24, para. 3)

10.0 MEASURES TO PROTECT THE IDENTITY OF THE PERSON DISCLOSING A WRONGDOING AND CONFIDENTIALITY OF THE DISCLOSURE

In the performance of his duties, the Designated Officer must take all necessary measures to ensure that the identity of the person who makes a disclosure or cooperates in an audit or investigation conducted on the basis of a disclosure remains confidential, subject to article 9.3 of this procedure. (ref.: section 10, para. 4, and section 21)

For this purpose, the Designated Officer is responsible for taking the necessary measures for ensuring:

- that access to all documents relating to a disclosure of wrongdoing or to verifications, in whatever form these may be, be limited to the Designated Officer and the associates he retains, if applicable. Physical documents must be kept under lock and key and not left in full view. Electronic documents must be maintained in directories accessible only to authorized persons;
- that all discussions between the Designated Officer and persons who disclose a wrongdoing, persons cooperating in the investigation and persons involved in 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 a wrongdoing, persons cooperating in the investigation and persons involved in the disclosure be protected by confidentiality agreements;
- that the method chosen for transferring documents containing information relating to a disclosure or to verifications take into account the high level of confidentiality of said documents;
- that all documents relating to a disclosure of wrongdoing or to verifications be destroyed according to the *calendrier de conservation* (disposition schedule). The files of the Designated Officer are confidential. No one has the right to access or rectify any information they receive despite sections 9, 83 and 89 of the *Act respecting access to documents held by public bodies and the protection of personal information*. (ref.: section 21, para. 2)

10.1 Confidentiality Obligations of School Board Staff Members

The Director General and anyone whom the Designated Officer retains to process disclosures of wrongdoing are bound by 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 during the procedure for disclosure, the processing of disclosures received, and most of all, the identity of the persons involved in the process.

11.0 PROTECTION AGAINST REPRISALS (ref.: section 30)

11.1 Prohibition Against Reprisals

Under the Act, it is prohibited for anyone to take a reprisal against a person 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 also prohibits the threat of reprisals against a person so that the person will abstain from making a disclosure or cooperating in an audit or investigation conducted on the basis of a disclosure.

The Act makes such contraventions 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. The amounts are doubled for a subsequent offence. (ref.: sections 33 and 34)

11.2 Protection with Regard to Reprisals

Any person who believes a reprisal has been taken against him may file a complaint with the Public Protector who will do the appropriate follow-up. (ref.: section 32)

The Designated Officer will refer a person who believes has been a victim of reprisals to the Public Protector.

If the reprisal measures affect a person's employment or working conditions, the Designated Officer will instead refer this person to the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST). (ref.: section 32, para. 4)

11.3 Recourse Against a Prohibited Employment Practice

Reprisals in the workplace or the threat of such reprisals constitute a prohibited practice under section 122 of the *Act respecting labour standards.*

A staff member who believes is a victim of a prohibited practice as stated under section 122 of the *Act respecting labour standards* must exercise his right to recourse with the CNESST within forty-five (45) days of the practice that is the subject of his complaint. (ref.: section 123 of the *Act respecting labour standards)*

11.4 Informing Persons Disclosing a Wrongdoing and Co-Workers

The Designated Officer must inform the person disclosing a wrongdoing and all co-workers cooperating in the verification that the *Act respecting labour standards* offers them protection and recourses should reprisals be taken against them. He must also inform them that time limits may apply when exercising their recourse and recommend them to obtain all necessary information, including seeking independent legal advice.

12.0 FINAL PROVISIONS

12.1 Interpretation Compatible with the *Act to facilitate the disclosure of wrongdoings relating to public bodies*

The aim of this procedure is to implement the applicable provisions of the *Act to facilitate the disclosure of wrongdoings relating to public bodies* in the school board, which must be interpreted accordingly. Should there be a discrepancy between this procedure and the Act, the latter will prevail.

12.2 Coming into Force

This procedure comes into force on February 28, 2018.

APPENDIX 1: METHOD OF COMMUNICATION

In accordance with article 7.1 of this procedure, a person wishing to make a disclosure of wrongdoing must communicate with the Designated Officer confidentially by:

- filling out the disclosure form under Appendix 2, making sure to include all information available to him;
- sending the form to the Designated Officer, either by Canada Post or internal mail, **in a sealed envelope marked "Confidential"** to the following address:

Designated Officer responsible for dealing with disclosures of wrongdoing

APPENDIX 2: DISCLOSURE FORM

According to the Procedure to Facilitate the Disclosure of Wrongdoings

Should you wish to disclose a wrongoing, please print and complete this form, making sure to providing all information available to you, and send the form by Canada Post or internal mail in a sealed envelope marked "Confidential" to the Designated Officer responsible for dealing with disclosures of wrongdoing at the following address:: _____

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IDENTIFICATION

Name	**Given name**

Are you a staff member of the school board?

□ Yes ☐ No **If not, kindly contact the Public Protector directly.**

A staff member is any person who, on a permanent or occasional basis, is employed by the school board and receives a salary. For the purposes of this procedure, persons who participate in the mission of the school board by holding office, performing a function, a job or another task are also considered staff members, whether they are remunerated or not. These persons are normally commissioners who sit on Council or other school board committees, as well as volunteers who work in the schools.

CONTACT DETAILS FOR ENSURING CONFIDENTIAL COMMUNICATIONS

Indicate at least one (1) way to communicate with you confidentially. Failing to do so, your disclosure will be considered anonymous and redirected to the Public Protector.

Telephone	Permission to leave a message? ☐ Yes ☐ No
Email	
Mailing address	

PERSONS INVOLVED IN THE WRONGDOING

Name	**Given name**	**Title**
Contact details		□ **School board employee**
Name	**Given name**	**Title**
Contact details		□ **School board employee**
Name	**Given name**	**Title**
Contact details		□ **School board employee**

DESCRIPTION OF FACTS

Describe the facts:

How is this a wrongdoing?

DESCRIPTION OF FACTS (continued)			
Possible consequences for the school board, health or safety of persons or the environment:			
DATE(S) AND LOCATION			
□ Date:			
□ From:		**To:**	
□ Repetitive nature. Specify:			
Location			
OTHER PEOPLE INVOLVED AND WITNESSES			
Name	**Given name**	**Title**	
Contact details			**□ School board employee**
Role (witness, participant, etc.)			
Name	**Given name**	**Title**	
Contact details			**□ School board employee**
Role (witness, participant, etc.)			
Name	**Given name**	**Title**	
Contact details			**□ School board employee**
Role (witness, participant, etc.)			
OTHER INFORMATION			
Evidence or documents in your possession, if applicable:			
Steps taken (management, union, staff member):			
Fear or threat of reprisal:			
Any information useful to processing the disclosure of wrongdoing:			

The information contained herein will only be available to the school board's Designated Officer responsible for dealing with wrongdoings and his/her associates, where applicable. The information will be retained as confidential and may only be used and communicated according to the *Procedure to Facilitate the Disclosure of Wrongdoings.*