



REGISTER OF OFFICIAL DOCUMENTS

PROCEDURE TO FACILITATE THE DISCLOSURE OF WRONGDOINGS

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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.

4 DEFINITIONS

« **Wrongdoing** » includes:

- A contravention of Quebec statutes, federal statutes applicable in Quebec or regulations pursuant to the application of such laws;
- A serious breach of ethical and professional standards;
- Misuse of school board funds or property, including that which it manages or

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.

holds for others;

- Gross mismanagement within the school board including an abuse of power;
- An action or omission that seriously undermines or has the potential of seriously undermining the health or safety of a person or the environment.
- Ordering or encouraging a person to commit a wrongdoing as described above. Wrongdoings include, in particular, those committed by a member of the personnel of a public body in the exercise of his/her functions or by any person, partnership, group or other entity in the preparation or performance of a contract, including a grant of financial assistance, that has been entered into or is about to be entered into with the school board.

Examples of wrongdoings may also include:

- Theft, embezzlement or misappropriation of funds, supplies and services, resources, other assets or time
- Forgery or alteration of cheques or other banking documents and records
- Any irregularity in the handling or reporting of money transactions, including the falsification, unauthorized destruction or removal of corporate records or financial statements
- Any computer-related activity involving the alteration, destruction, forgery, manipulation of data or unauthorized access for fraudulent purposes
- Any claim for reimbursement of expenses that is either intentionally inflated or intentionally submitting a non bona fide business expense of the board
- Disclosure of confidential information pertaining to students, employees or school board operations.
- Unauthorized use of Board money, property, resources or authority for personal gain or other non-Board related purpose
- Misuse or abuse of authority in the context of purchasing goods or services
- Seeking or accepting anything of material value from suppliers of the Board
- Collusion
- Influence peddling
- Failure to disclose conflicts of interest
- Serious breach of LBPSB financial policies, procedures, guidelines or by-laws
- Knowingly directing or counseling a person to commit a wrongdoing of financial fraud or misconduct

« **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.

The Council of Commissioners of the Lester B. Pearson School Board designated the Secretary General as Officer responsible for dealing with the disclosure of wrongdoings.

The mandate of the Designated Officer is to ensure the application and distribution of the present Procedure. He/she also ensures that the information required in the School Board annual report is provided.

The Designated Officer receives disclosures from employees, keeps the Council of Commissioners informed of the steps taken in the verification of this disclosure to determine whether a wrongdoing was committed or is about to be committed and, where applicable, reports as much to the Council of Commissioners.

The Designated Officer may refer to the Public Protector the disclosures on which the latter is likely to be better suited to follow up on, in accordance with article 8.3 of the present Procedure.

The Designated Officer is bound to confidentiality in exercising the functions of office and must ensure the confidentiality of any information communicated to him or her, including the identity of the person disclosing who made the disclosure. (Ref s. 21)

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 Officer within the Board or to the Public Protector, at his or her discretion. (Ref s. 6)

Contact information for the Designated Officer responsible for dealing with disclosures of wrongdoing:

In writing/in person:

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

By telephone : (514) 422-3000 ext. 30301

Contact Information for disclosures to the Public Protector:

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

Secure forms on the website: www.divulgation.protecteurducitoyen.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

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

He/she shall determine the methods preferred for filing a disclosure and communicating with him/her confidentially and shall so inform employees. These methods are described in Appendix 1.

7.2 Anonymous Disclosure

A person disclosing a wrongdoing to the Designated Officer must identify him/herself and indicate the manner in which he/she learned about the information being disclosed.

A person wishing to disclose anonymously must do so to the Public Protector in accordance with s. 6.2 of the present Procedure. If the Designated Officer receives an anonymous disclosure, he/she shall transfer it to the Public Protector unless it is found to be not admissible in accordance with s. 8.2 of the present 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 communicating with him/her confidentially in writing;
- **About the participants in the alleged wrongdoing:**
 - Full name;
 - Professional title or position held;
 - 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.

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 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 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 puts an end to the examination of a disclosure if of the opinion, in particular:

- (1) that the subject-matter of the disclosure does not fall within his/her mandate;
- (2) that 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) that the subject-matter of the disclosure questions the merits or effectiveness of the policies and program objectives of the Government, the school board or another public body;
- (4) that the disclosure is frivolous.

The Designated Officer may also end the examination of a disclosure if it occurred more than one year ago. This delay can be extended based on serious reasons. In any case, if time elapsed renders the examination impracticable, the Designated Officer may put an end to it.

When putting an end to the processing or examination of a disclosure, the Designated Officer sends a notice, with reasons, to the person who made the disclosure.

Transferring the Disclosure to the Public Protector

The Designated Officer may forward the disclosure to the Public Protector by contacting the *Direction des enquêtes en matière d'intégrité publique* if, in his/her opinion, the Public Protector, given the circumstances, is better suited to deal with it.

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 to produce documents.

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

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 puts an end to the examination or processing of the disclosure, or continues it, according to the terms agreed upon with the body to which he/she forwarded the information.

If the Designated Officer considers it appropriate, he/she notifies the person who made the disclosure that the information has been forwarded.

9 VERIFICATION BY THE DESIGNATED OFFICER

9.1 Verification by the Designated Officer

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

9.2 Reporting by the Designated Officer

The Designated Officer keeps the Council of Commissioners informed of the steps taken, unless, in the Designated Officer's opinion, the disclosure is likely

to implicate them. (Ref s. 24). The Council of Commissioners will be provided with a nameless summary description of the actions taken.

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

9.3 Rights of a Person affected by a Disclosure of Wrongdoing

The Designated Officer must protect the rights of the person affected by the disclosure of wrongdoing while the examination is underway and give him/her the opportunity to present his/her version of the facts. (Ref s. 10 (4))

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 being impeded, he/she may transfer the file to the Public Protector.

9.5 End of an Examination

When the Designated Officer finds that a wrongdoing has been committed or is about to be committed, he/she will report this to Council who will take the necessary corrective measures, where applicable. (Ref s. 24). In his or her report, the Designated Officer will summarize the findings related to the wrongdoing he or she examined while keeping confidential the identity of the person who made the disclosure.

The Designated Officer informs the person who disclosed the wrongdoing that the processing of his/her disclosure is terminated and, if considered appropriate, may inform the person who made the disclosure of any follow-up given to the disclosure. (Ref s. 24)

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

In the exercise of the functions of office, the Designated Officer must take all necessary measures to ensure that the identity of the person who makes a disclosure or of any person who cooperates in an audit or investigation conducted on the basis of a disclosure remains confidential, as well as any information communicated to him or her, subject to s. 9.3 of the present Procedure. (Ref ss. 18, 10 (4) and 21)

To that end, the Designated Officer is responsible for taking the measures necessary to ensure:

- 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. The amounts are doubled for a subsequent offence. (Ref ss. 33 and 34)

11.2 Protection with regard to Reprisals

Any person who believes a reprisal has been taken against him/her may file a complaint with the Public Protector who will see to the appropriate follow up. (Ref s. 32)

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

If the reprisal measures affect a person's employment or working conditions, the employee may be referred to his/her union and to the *Commission des normes, de l'équité, de la santé et de la sécurité du travail* (« **CNESST** »).

11.3 Recourse against a Prohibited Employment Practice

Reprisals in the workplace or the threat of such reprisals constitute a prohibited practice under article 122 of the *Act respecting Labour Standards*.

An employee subject to the *Act respecting Labour Standards* who believes he/she is a victim of a prohibited practice as stated under article 122 of that Act must exercise his/her right to recourse with CNESST **within 45 days** of the practice about which he/she is complaining.

An employee covered by a collective agreement may refer to his or her union.

11.4 Information to Persons Disclosing a Wrongdoing or Cooperating

The Designated Officer must inform the person disclosing a wrongdoing and all persons cooperating in the verification that they are protected in the event that reprisals be taken against them. He/she must also inform them of the time limit to exercise their recourse.

12 FINAL PROVISIONS

12.1 Interpretation compatible with the Act

The aim of the present Procedure is to implement the applicable provisions of the *Act to facilitate the Disclosure of Wrongdoings relating to Public Bodies* in the school board and must be interpreted accordingly. In case of a contradiction between the present Procedure and the Act, the latter will prevail.

12.2 Use of the masculine tense

To simplify the text in the present Procedure, the use of masculine gender may include the feminine gender in some instances.

12.3 Coming into Force

The present Procedure comes into force on _____.

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

yes no **If not, kindly contact the Public Protector directly.**

A employee is any person who, on a permanent or occasional basis, is employed by the school board and receives a salary/remuneration.

CONTACT INFORMATION FOR CONFIDENTIAL COMMUNICATION

Indicate at least one (1) method to contact 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

Postal address

PARTICIPANTS IN THE WRONGDOING

Name

Given name

Title

Contact Information

School board employee

Name

Given name

Title

Contact Information

School board employee

Name

Given name

Title

Contact Information

School board employee

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? _____

DATE(S) AND LOCATION

On *(insert date)* _____
 From: _____ to: _____
 Repetitive nature. Specify: _____

Location _____

OTHER PEOPLE INVOLVED AND WITNESSES

Name	Given name	Title
Contact Information		<input type="checkbox"/> School board employee

Role (witness, participant, etc.)		
Name	Given name	Title
Contact Information		<input type="checkbox"/> School board employee
Role (witness, participant, etc.)		
Name	Given name	Title
Contact Information		<input type="checkbox"/> School board employee
Role (witness, participant, etc.)		
OTHER INFORMATION		
Evidence or documents in your possession, if applicable: _____		
Steps taken (management, union, employee): _____		
Fear or threats 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. The information will be retained as confidential and may only be used and communicated according to the *Act to Facilitate the Disclosure of Wrongdoings*.