



COMMISSION SCOLAIRE  
**Eastern Townships**  
SCHOOL BOARD

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# PROCEDURE OF DISCLOSURE OF WRONGDOINGS (P043)

<b>Procedure Name</b>	PROCEDURE OF DISCLOSURE OF WRONGDOINGS
<b>Procedure Number</b>	P043
<b>Adopted Date by Council</b>	June 23, 2020
<b>Effective date</b>	July 1 <sup>st</sup> 2020
<b>Source</b>	Human Resources

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## 1 PROCEDURE STATEMENT

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 »<sup>1</sup>, 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 persons disclosing information and those who are involved in an audit or investigation, against reprisals.

## 2 APPLICATION

This procedure applies to the disclosure of any and every wrongdoing 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.

## 4 DEFINITIONS

**Wrongdoing:** any act committed by a member of the public body's staff in the performance of his or her duties or by any individual, partner, group or organization in the preparation or execution of a contract, including the awarding of financial assistance, entered into or about to be entered into with the school board.

« **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 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.

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<sup>1</sup> 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.

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

For purposes of this Procedure, persons who participate in the mission of the school board by holding office, performing a function, job or other 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/she will abstain from making a disclosure or from cooperating in an audit 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 article 31 para. 1

## **5 OPERATIONAL STRUCTURE**

### **5.1 Responsible for the Application**

The Council delegates the duties to be performed by the highest ranking administrative official in the school board to the Director General.

The Director General designates Caroline Dufresne, Director of Human Resources as the Officer responsible for dealing with such disclosures.

The mandate of the Designated Officer is to ensure the application and distribution of the present Procedure.

The Designated Officer receives disclosures from staff members, investigates, after such disclosure, whether a wrongdoing was committed or is about to be committed and, where applicable, reports the findings to the Director General.

He/she sends the Public Protector the disclosures on which the latter is likely to follow up, 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 the person disclosing information and the information itself. Ref (article 21)

Lastly, the information contained in article 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 (article 27)

If needed, the Designated Officer may retain associates to deal with disclosures.

## **6 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 with regard to the school board. The procedure to follow for such disclosure is outlined in this document. Ref (article 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 staff member 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 (article 6)

Contact information for the Designated Officer responsible for dealing with disclosures of wrongdoing add "Confidential" outside the envelop or in email subject:

**Caroline Dufresne – Confidential**  
**Director of Human Resources**  
**Eastern Townships School Board**  
340 Saint-Jean-Bosco Street  
Magog (Quebec) J1X 1K9  
Email: [dufresnec@etsb.qc.ca](mailto:dufresnec@etsb.qc.ca)  
Tel: 819-868-3100 ext. 55045

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<sup>e</sup> 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](http://www.divulgation.protecteurducitoyen.qc.ca)

## 6.3 Disclosure of Confidential Information

As part of a disclosure or involvement in an audit 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 (article 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 staff members. 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 article 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 article 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;
  - Name and given name, 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 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 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 article 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 Investigation**

The Designated Officer will investigate in accordance with article 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 investigation 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 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.

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 forwards the disclosure to the Public Protector if, in his/her opinion, the Public Protector, given the circumstances, is better suited to deal with it. The Designated Officer will contact the *Direction des enquêtes en matière d'intégrité publique* to discuss the terms of the transfer to the Public Protector. Ref (article 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.

## **8.3 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 section 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 (article 23)

The Designated Officer may or may not put an end to the examination or processing of the disclosure, according to the conditions 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 to the Director General**

The Designated Officer keeps the Director General of the school board informed of the steps taken, unless, in the Designated Officer's opinion, the disclosure is likely to implicate the Director General. Ref (article 24)

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 (article 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 investigation is underway and give him/her the opportunity to present his/her version of the facts. Ref (article 10 para. 4)

The Designated Officer must provide the person affected by a disclosure of wrongdoing the necessary information informing him/her of the nature of the allegations against him/her and the opportunity to respond to them. Ref (article 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 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 Investigation**

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 (article 34)

If the Designated Officer believes that his/her investigation into a wrongdoing is being impeded, he/she may transfer the file to the Public Protector. If need be, he/she may or may not put an end to the processing of the disclosure in accordance with the conditions agreed upon with the Public Protector. Ref (article 22 para. 2)

### **9.5 End of an Investigation**

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

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 (article 24 para. 3)

## **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 cooperates in an audit or investigation conducted on the basis of a disclosure remains confidential subject to article 9.3 of the present Procedure. Ref articles 10 para. 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 and the associates he/she retains, if applicable. 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 investigation 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 investigation 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 alter any information he/she receives despite articles 9, 83 and 89 of the *Act Respecting Access to Documents Held by Public Bodies and the Protection of Personal Information*. Ref article 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 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 Ref article 30**

### **11.1 Prohibition against Reprisals**

The Act prohibits a reprisal be taken 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 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 articles 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 article 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 Designated Officer will instead refer him/her to the *Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST)*. Ref article 32, para. 3

### **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*.

A staff member 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. Ref article 123 *Act respecting Labour Standards*

### **11.4 Information to Persons Disclosing a Wrongdoing and to Co-Workers**

The Designated Officer must inform the person disclosing a wrongdoing and all co-workers 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 – not applicable in the English version**

### **12.3 Coming into Force**

The present Procedure comes into force on July 1<sup>st</sup> 2020.

## **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 article 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 that says "Confidential"**
    - By Canada Post or internal mail to the following address:

**Caroline Dufresne – Confidential**  
**Director of Human Resources**  
**Eastern Townships School Board**  
340 Saint-Jean-Bosco  
Magog (Quebec) J1X 1K9

## 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 to the Designated Officer in a sealed envelope that states "Confidential", by Canada Post or internal mail, to the Designated Officer.

IDENTIFICATION			
Name	Given name		
<b>Are you a member of the staff of the school board?</b>			
<input type="checkbox"/> yes <input type="checkbox"/> no <b>If not, kindly contact the Public Protector directly.</b>			
A staff member is any person who, on a permanent or occasional basis, is employed by the school board and receives a salary. For purposes of this Procedure, persons who participate in the mission of the school board by holding office, performing a function, job or other 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.			
CONTACT INFORMATION FOR CONFIDENTIAL COMMUNICATION			
<b>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.</b>			
Telephone	Permission to leave a message?		
	<input type="checkbox"/> yes <input type="checkbox"/> no		
Email			
Postal address			
PARTICIPANTS IN THE WRONGDOING			
Name	Given name	Title	
Contact Information			<input type="checkbox"/> School board employee
Name	Given name	Title	
Contact Information			<input type="checkbox"/> School board employee
Name	Given name	Title	
Contact Information			<input type="checkbox"/> 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		
<input type="checkbox"/> On ( <i>insert date</i> ) _____		
<input type="checkbox"/> From: _____ to: _____		
<input type="checkbox"/> 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, staff member): _____		
_____		
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 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*.