

	
Commission scolaire English-Montréal English Montreal School Board	
POLICY: EMPLOYEES DISCLOSURE PROTECTION	CODE: DG-26
Origin:	General Directorate
Authority:	Resolution #12-09-05-14
Reference(s):	

1. STATEMENT

The English Montreal School Board (EMSB) believes it is important to have a culture of open communication where issues and concerns can be dealt with as they arise. The EMSB continually strives to ensure its policy framework provides guidance and processes that contribute to best practices and integrity in our mission as an educational institution and in our actions. This Policy supports the EMSB's policy framework by providing staff with an additional method for disclosing serious concerns of wrongdoing in the workplace. The Policy will apply in situations where it is not possible to use the usual method of reporting concerns to an employee's immediate superior or through other policy processes. The EMSB strongly prefers to hear about any such concerns in a timely manner so that they can be dealt with and corrected, to avoid the potential of further problems over the longer-term.

2. POLICY

It is the policy of the EMSB that employees should disclose information concerning wrongdoing when they have reasonable grounds to believe that another person has committed a wrongdoing in the workplace, and to ensure that employees who come forward within the context of this Policy are treated fairly and are protected from reprisal.

3. APPLICATION

This Policy applies to all EMSB employees. However, the EMSB encourages any person to make a disclosure of wrongdoing.

4. OBJECTIVES

- a. To provide an effective process that allows employees to bring concerns or information about illegal activities or other wrongdoing as defined in this Policy (including improper use of EMSB funds, assets or resources) to the attention of

their immediate superior or the Investigator Officer for review and resolution without fear of reprisal;

- b. To provide that participants in an investigation be treated fairly and appropriately, and;
- c. To ensure that the EMSB has a process which favours transparency and accountability.

5. DEFINITIONS

- a. **Discloser** means an employee who makes a disclosure under this Policy. This person is commonly referred to as a “whistleblower”.
- b. **Protected Disclosure** means a disclosure that is made in good faith by an employee who has reasonable grounds to believe that another person committed a wrongdoing in accordance with this Policy.
- c. **Employee** means any individual who is employed by the EMSB but for greater certainty, does not include self-employed individuals or individuals working for outside corporations or suppliers of the EMSB.
- d. **Investigator Officer** means an individual designated by the Council of Commissioners of the EMSB to be responsible for receiving and dealing with disclosures of wrongdoings made by employees of EMSB. The Investigator Officer shall not be a present or past member of the Council of Commissioners or employee of the EMSB.
- e. **Improper Disclosure** means a disclosure made in bad faith, which includes but is not limited to providing false information, making disclosures that the discloser knows are baseless, or making repeated disclosures concerning matters that have been previously examined and determined by the Investigator Officer.
- f. **Reprisal** means any of the following measures taken against an employee by reason that the employee has, in good faith, made a protected disclosure or has, in good faith, cooperated in an investigation carried out under this Policy:
 - i. any disciplinary measure including, but not limited to, transfer, demotion or termination;
 - ii. any measure that adversely affects the employment or working conditions of the employee; or
 - iii. a threat to take any of the measures referred to in paragraphs (a) or (b).

- g. **Subject** means the person(s) whom the discloser believes has committed or is about to commit a wrongdoing that is covered by this Policy.
- h. **Wrongdoing** for purposes of this Policy means any act or omission that is more than trivial in nature, and that is:
 - i. a contravention of any Act of Parliament or of the National Assembly of Québec, or of any regulations made under any such Act;
 - ii. a misuse of public funds or assets;
 - iii. gross mismanagement;
 - iv. a serious breach of the EMSB policies, procedures, guidelines or by-laws;
 - v. an act or omission that creates a substantial and specific danger to the life, health and safety of persons or the environment, other than a danger that is inherent in the performance of the duties or functions of an employee;
 - vi. a deliberate attempt to cover up any wrongdoing set out in any of paragraphs (a) to (e); or
 - vii. knowingly directing or counselling a person to commit a wrongdoing set out in any of paragraphs (a) to (f).

If the wrongdoing pertains to corruption, malfeasance, collusion, fraud or influence peddling in awarding, obtaining or performing contracts granted, in the exercise of their functions, by a body or a person belonging to the public sector or a gross mismanagement of contracts within the public sector, the protected disclosure shall be made to the Office of Anti-Corruption Commissioner established under the Anti-Corruption Act R.S.Q., chapter L-6.1. The Investigator Officer shall assist the employee requiring assistance to make his protected disclosure under the said Act.

Actions that result from a balanced and informed decision-making process are not considered wrongdoings within the scope of this Policy.

6. **CONFIDENTIALITY AND REPORTING OF WRONGDOING**

All EMSB employees who participate in or are involved in any way in any process under this Policy shall be responsible to:

- a. keep information relating to any process under this Policy strictly confidential;

- b. refrain from discussing any protected disclosure or the fact of their involvement, except to the extent required for the purposes of any investigation and resolution.

Disclosers and subjects have the right to be accompanied by another person of their choice. However, the person shall act as a witness only and cannot represent the employee.

The identity of employees involved in the disclosure process, including employees making disclosures, witnesses and employees alleged to be responsible for wrongdoings will be treated as confidential and protected in accordance with the law. Employees who are making a disclosure are encouraged to identify themselves because, in the event of a concern communicated anonymously, it will not be possible for the employee to be subsequently contacted, whether for clarification or to be informed of the results of the investigation.

Employees who become aware of a wrongdoing should first determine whether it is possible to use the regular method of reporting concerns to his immediate superior or through other policy processes to resolve the situation. If this is not possible, the employee is to raise the matter with the Investigator Officer.

7. DESIGNATION OF INVESTIGATOR OFFICER

The Council of Commissioners of the EMSB shall designate the Investigator Officer, who is an independent outside person, responsible for receiving and dealing with disclosures of wrongdoings made by employees of EMSB.

8. INVESTIGATING WRONGDOING

Under this Policy, all allegations of wrongdoing will be promptly acknowledged provided the employee has self-identified. Nevertheless, action will commence as soon as possible. The Investigator Officer will review the information provided and, if there are sufficient grounds for further action, draw on resources from within the EMSB as appropriate (e.g., Audit, Legal, Finance, Human Resources, Security, etc.) to conduct an investigation. The Investigator Officer may also draw upon external resources to conduct an investigation.

Once the investigation is complete, the Investigator Officer will provide a report of the recommendations to the Director General or in the event that the subject is the Director General, such report shall be transmitted to the Chair of the EMSB.

If the employee who raised the concern about the wrongdoing is known, the results of the investigation will also be shared with this employee.

If the conclusions of the investigation establish that an employee has committed a wrongdoing under this Policy, appropriate disciplinary measures may be taken. Any action to be taken shall be in accordance with the applicable collective agreements, local management policies and regulations respecting the conditions of employment of management or executive staff of the school board.

9. REPRISAL COMPLAINT

Any employee who has reasonable grounds to believe that a reprisal has been taken against him or her may contact the Investigator Officer for assistance and/or may contact his/her union or association for advice and may file a grievance.

10. IMPROPER DISCLOSURE

Improper disclosure will be viewed as employee misconduct and will be met with appropriate disciplinary action, up to and including termination of employment for cause, where warranted.

11. COMING INTO FORCE AND REVIEW PROCESS

This Policy comes into force on the date of its adoption by the Council of Commissioners of the EMSB and will be reviewed every 5 years or when required.

12. INFORMING EMPLOYEES

No later than sixty days after its adoption by the Council of Commissioners, all employees shall be notified, electronically and/or by a general circular from the Director General, of the existence of this policy and its location on the Board's website. Additionally, a copy of the policy is to be posted in each school, centre and department of the Board.

13. REPORT FROM THE INVESTIGATOR OFFICER

On September 15, at the latest, the Investigator Officer must send to the Director General and the Council of Commissioners a report stating the number of complaint referrals received and their nature, the measures recommended and any action taken. It is understood that no names of individuals and schools/centres or incidents that may identify a person or a school/centre shall be reported publicly.