



PROCEDURE TO FACILITATE DISCLOSURE OF WRONGDOINGS

Department responsible : General Administration	Approval by: Director General
Effective date: April 26, 2019	Modified by:
References : <i>Education Act for Cree, Inuit and Naskapi Native Persons, CQLR, c. I-14</i> <i>Act to facilitate the disclosure of wrongdoing relating to public bodies, CQLR, c. D-11.1</i> <i>Anti-Corruption Act, CQLR, c. L-6.1</i> <i>Act respecting labour standards, CQLR, c. N-1.1</i> <i>Act respecting access to documents held by public bodies and the protection of personal information, CQLR, c. A-2.1</i>	

1 STATEMENT OF PRINCIPLE

Disclosure of wrongdoings is fundamental to ensuring the integrity of public administration. The purpose of this Procedure is to establish a mechanism aimed at facilitating the disclosure of wrongdoings within the school board pursuant to the *Act to facilitate the disclosure of wrongdoing relating to public bodies, CQLR, c. D-11.1* (hereinafter referred to as the "**Act**").

This Act prescribes, for staff members of public bodies, the establishment of a parallel disclosure system within their organization and with the Quebec Ombudsman, so that the whistleblower can choose the forum in which to communicate the information he holds about a wrongdoing. Third parties may also make such a disclosure by contacting the Quebec Ombudsman directly.

In all cases, the Act establishes a general protection regime intended to protect whistleblowers and individuals who cooperate in audits or investigations from reprisals.

2 SCOPE

This Procedure applies to the disclosure of any wrongdoing committed or about to be committed in respect of the school board.

3 LEGAL REFERENCE FRAMEWORK

- *Act to facilitate the disclosure of wrongdoing 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*



information, CQLR, c. A-2.1

- Code of professional conduct for the Kativik Ilisarniliriniq's commissioners.
- Code of ethics and professional conduct for the Kativik Ilisarniliriniq's employees

4 DEFINITIONS

In this Procedure, the following definitions shall apply:

“Wrongdoing”: any act that constitutes, as the case may be (s. 4 of the Act):

- a violation of a Québec law, a federal law applicable in Québec or a regulation made under such a law;
- a serious breach of the standards of ethics and professional conduct;
- a misuse of funds or property of the school board, including the funds or property it manages or holds for others;
- gross mismanagement within the school board, including an abuse of authority;
- the fact, through an act or omission, of seriously compromising a person's health or safety or the environment;
- directing or counselling a person to commit a wrongdoing described in any of the above.

Such acts include, in particular, those committed by a staff member of the school board in the exercise of his 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.

“Staff member”: any person in the permanent or casual employ of the school board and who receives from the latter a salary or compensation.

For the purposes of this Procedure, persons who participate in the mission of the school board when they perform duties, functions, work or any other task, whether or not paid for by the school board, are also considered to be staff members. These include members of the Council of Commissioners and other committees in place within the school board, as well as volunteers working in its institutions.

“Reprisals”: Any prejudicial action taken against a person on the ground that he has, in good faith, made a disclosure or cooperated with an audit or investigation conducted as a result of a disclosure.

Reprisals also include threatening a person for the latter to refrain from making a disclosure or collaborating in such an audit or investigation.

In respect of employment, reprisals are deemed to include dismissal, demotion, suspension, displacement, as well as any other disciplinary action or measure that affects employment or working conditions. (s. 31, par. 1 of the Act).

5 RESPONSIBILITY FOR IMPLEMENTATION OF THE PROCEDURE

The Associate Secretary General (hereinafter referred to as the **“Person in Charge”**) is responsible for ensuring the implementation and dissemination of this Procedure.

He is responsible for receiving disclosures from staff members, verifying, following such a disclosure, whether a wrongdoing has been committed or is about to be committed and, if so, reporting to the Director General.

He shall forward to the Quebec Ombudsman the disclosures to which the latter would be better



able to respond, in accordance with section 8.3.

He is required to exercise discretion in the performance of his duties and must keep confidential the identity of the whistleblower or of the person who participates in an audit conducted as a result of a disclosure and of the information provided to him. (s. 21 of the Act)

He may not be prosecuted for acts carried out in good faith in the performance of his duties. (s. 27 of the Act)

If he deems it necessary, the Person in Charge may enlist additional resource persons to handle disclosures.

6 DISCLOSURE OF WRONGDOINGS

6.1 Disclosure to the Officer responsible for dealing with disclosures

School board staff members may, at any time, disclose to the Person in Charge any information that may demonstrate that a wrongdoing has been committed or is about to be committed against the school board.

This disclosure shall be made according to the terms and conditions set out in this Procedure.

6.2 Disclosure to the Quebec Ombudsman

Any person, including a member of the school board's personnel, may, at any time, disclose to the Quebec Ombudsman any information that may demonstrate that a wrongdoing has been committed or is about to be committed against the school board.

The contact information for making a disclosure to the Quebec Ombudsman is as follows:

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 Quebec)

Fax: 1 844 375-5758 (toll-free in Quebec)

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

6.3 Disclosure to the public

If a person has reasonable grounds to believe that a wrongdoing committed or about to be committed poses a serious risk to the health or safety of a person or to the environment and that, given the urgency of the situation, he cannot turn to the Person in Charge or the Quebec Ombudsman, he may disclose to the public any information that he considers reasonably necessary to counteract that risk and benefit from protection against reprisals prescribed in section 11.

However, this person must first disclose this information to a police force or to the Commissaire à la lutte contre la corruption (Anti-Corruption Unit).

In addition, the disclosure of such information shall not have the foreseeable effect of prejudicing the measures taken to counter a serious risk to the health or safety of a person or the environment.

6.4 Disclosure of confidential information

A person who makes a disclosure or cooperates in an audit or investigation as a result of a



disclosure may disclose, in accordance with this Procedure, any information that may demonstrate that a wrongdoing has been committed or is about to be committed, and this:

- despite the provisions on the disclosure of information set out in the *Act respecting the protection of personal information in the private sector* (CQLR, c. P-39.1) and in the *Act respecting access to documents held by public bodies and the protection of personal information* (CQLR, c. A-2.1), except those set out in section 33 of the latter Act; and
- despite any other restrictions on communication provided for by a law and any obligation of confidentiality or loyalty that may bind a person, particularly with regard to their employer or, where applicable, their client. However, the waiver of the solicitor-client privilege so authorized shall not apply to the lawyer/notary solicitor-client privilege. (s. 8 of the Act)

7 FILING OF A DISCLOSURE

7.1 Procedures for filing a disclosure

The Person in Charge must take the necessary measures to facilitate the filing of a wrongdoing disclosure, while ensuring the confidentiality of communications.

He determines the preferred means of communication for making a disclosure and communicating with him in complete confidentiality and he informs staff members. These modes of communication are provided for in Annex 1.

7.2 Anonymous disclosure

The person making a disclosure to the Person in Charge must identify himself and indicate how the information disclosed was obtained.

The person who wishes to make an anonymous disclosure must contact the Quebec Ombudsman in accordance with section 6.2.

Upon receipt of an anonymous disclosure, the Person in Charge transfers it to the Quebec Ombudsman, unless it is, on the face of it, inadmissible in accordance with section 8.2.

7.3 Content of the disclosure

A disclosure to the Person in Charge should contain the following information:

- **Concerning the whistleblower:**
 - Contact information allowing for confidential written communication;
- **Concerning the participants in the alleged wrongdoing:**
 - Full name;
 - Professional title or position held;
 - The administrative unit in which this person occupies this function;
 - Contact information.
- **Concerning the alleged wrongdoing:**
 - Description of the facts, event or act;
 - What makes it a wrongdoing;



- Place and date of the act;
 - Repetitive nature of the act, if applicable;
 - Other persons involved or having witnessed the act (name and surname, title or position, contact details);
 - Any document or evidence relating to the wrongdoing;
 - Possible consequences of the wrongdoing on the school board, on the health or safety of individuals or on the environment;
 - Information necessary to prevent the wrongdoing if it has not yet been committed.
- If other steps have been taken with a manager, union or other school board staff, a description of these steps.
 - Mention of fears or threats of reprisals.

If necessary, the Person in Charge will carry out appropriate checks to complete the missing information.

8 PROCESSING OF DISCLOSURES

8.1 Processing time frames

8.1.1 Acknowledgement of receipt

The Person in Charge shall send a written acknowledgement of receipt to the whistleblower within 5 working days of receiving the disclosure.

The Person in Charge shall not send an acknowledgement of receipt if he does not have in his possession any contact information that would allow him to communicate with the whistleblower in a confidential manner.

8.1.2 Determination of admissibility of the disclosure

The Person in Charge shall determine whether the disclosure is admissible at face value in accordance with section 8.2 within 15 working days of receipt of the disclosure.

The Person in Charge may always terminate the processing or review of the disclosure if subsequent audits reveal grounds for inadmissibility.

8.1.3 Audits

The Person in Charge shall carry out the audits in accordance with Section 9.

In all cases, the whistleblower shall be notified in writing as soon as the processing of his disclosure is completed.

If the audits continue more than 60 days after the date of receipt of the disclosure, the Person in Charge shall notify the whistleblower. Thereafter, the Person in Charge notifies him of the continuation of the audits every 90 days until they are terminated. These notices shall be given in writing.



8.2 Inadmissible disclosure

At any time, the Person in Charge must terminate the processing of a disclosure if the alleged wrongdoing is the subject of an action in court or involves a court decision.

In addition, the Person in Charge shall terminate his review if, among other things, he considers (s. 12 of the Act):

- 1° that the subject of the disclosure does not fall within his mandate;
- 2° that the disclosure is made for personal purposes and not in the public interest, for example, if its purpose relates only to a condition of employment of the person making the disclosure;
- 3° that the subject of the disclosure calls into question the validity of a regulation, policy or program of the government, school board or another public body;
- 4° that the disclosure is frivolous.

The Person in Charge may also terminate the examination of a disclosure if it exceeds by one year the occurrence of the act.

When the Person in Charge terminates the processing or review of a disclosure, he shall send a reasoned opinion to the person making the disclosure.

If the acts alleged in the disclosure can be dealt with under another regulatory or normative scheme of the school board, the Person in charge shall specify this in the notice.

8.3 Transfer of disclosure to the Quebec Ombudsman

If the Person in Charge believes that, in the circumstances, the Quebec Ombudsman is in a better position than him to act on a disclosure, the Person in Charge shall transfer it to the Quebec Ombudsman by contacting the Direction des enquêtes en matière d'intégrité publique du Protecteur du citoyen (Québec Ombudsman's Public Integrity Investigations Branch) to agree on the terms and conditions of the transfer. (s. 22 of the Act)

The Quebec Ombudsman may be better able to follow up on a disclosure when disclosure of the wrongdoing requires a full investigation or the power to compel a person by subpoena to provide information or produce documents.

The Person in Charge shall notify the whistleblower about the transfer.

If the disclosure of the alleged wrongdoing concerns the superior of the Person in charge or a Commissioner, the Person in charge informs the whistleblower that the disclosure will be transferred to the Quebec Ombudsman. The whistleblower can also choose to proceed according to another regulatory or normative scheme of the school board.

8.4 Transmission of information to an organization responsible for preventing, detecting or punishing crime or violations of the laws

If he considers that information brought to his attention may be the subject of a denunciation under section 26 of the *Anti-Corruption Act*, the Person in Charge shall promptly forward it to the Anti-Corruption Officer (Commissaire à la lutte contre la corruption).

The Person in Charge also discloses the information that is necessary for the purpose of prosecuting a violation of the law to any other agency responsible for preventing, detecting or punishing crime or contraventions of the law, including a police service or professional order. (s. 23 of the Act)



Ombudsman. (s. 22, para. 2 of the Act)

10 STEPS TO PROTECT WHISTLEBLOWER IDENTITY AND CONFIDENTIALITY OF DISCLOSURE

In the performance of his duties, the Person in Charge shall keep confidential the identity of the whistleblower, collaborators as well as the information communicated to him, even in respect of the alleged wrongdoer, subject to section 9.3. (s. 10, paras. 4 and 21 of the Act).

To this end, he is responsible for taking the appropriate steps to ensure:

- that all documents relating to a disclosure or audit, regardless of the medium in which they are made, are kept in such a way that the access to them is limited to the Person in Charge and to the staff he may associate with him, as the case may be. For this purpose, physical documents are kept under lock and key and are not left in sight. Electronic documents are stored in directories that are only accessible to authorized persons;
- that all exchanges between the Person in Charge and the whistleblowers, collaborators and implicated parties take place in a private place where the exchanges cannot be heard by third parties;
- that exchanges between the Person in Charge and whistleblowers, collaborators and implicated parties are protected by the signing of confidentiality agreements;
- that the method of transmission chosen for the communication of documents containing information relating to a disclosure or audit takes into account the high level of confidentiality of such documents; and
- that all documents relating to a disclosure or audit are destroyed by confidential blacking out in accordance with the retention schedule; and.

The records of the Person in Charge are confidential. No one has the right to access or rectify information communicated to him, despite sections 9, 83 and 89 of the *Act respecting access to documents held by public bodies and the protection of personal information*. (s. 21, para. 2 of the Act).

10.1 Obligations of confidentiality of the school board staff

The Director General and any person associated with the Person in Charge for the processing of the disclosures are bound by the same confidentiality obligations and must exercise the same level of discretion as the Person in Charge in order to protect the confidentiality of any information they may receive regarding the disclosure process, the handling of disclosures received and, in particular, the identity of the persons involved in the process

11 PROTECTION AGAINST REPRISALS (s. 30 and ff. of the Act)

11.1 Prohibition to take reprisal

It is prohibited to taken any reprisal or threaten to do so against a person who makes a disclosure or cooperates in good faith in an audit or investigation because of a disclosure.

The Act creates an offence punishable by a fine of \$2,000 to \$20,000 in the case of a natural person or, in all other cases, by a fine of \$10,000 to \$250,000. In the event of a repeat offence, the fine is doubled. (sections 33 and 34 of the Act).



11.2 Protection against reprisals

Anyone who believes a reprisal has been taken against him may file a complaint with the Quebec Ombudsman, who will ensure appropriate follow-up. (s. 32 of the Act)

The Person in Charge refers the person who believes a reprisal has been taken against him to the Quebec Ombudsman.

When the reprisal measure concerns the employment or working conditions, the Person in Charge refers it to the Commission des normes, de l'équité, de la santé et de la sécurité du travail ("CNESST"). (s. 32, para. 3)

11.3 Remedy against prohibited employment practices

A reprisal taken in respect of employment or the threat of such a reprisal constitutes a prohibited practice within the meaning of section 122 of the *Labour Standards Act*.

A staff member subject to the Act respecting labour standards who believes that he has been the victim of a practice prohibited under section 122 of that Act must file a complaint with the CNESST within 45 days of the practice he complains about. (s.123 *Standards Act*)

11.4 Information to whistleblowers and collaborators

The Person in Charge shall inform whistleblowers and all persons who cooperate in an audit that they are protected in the event of a reprisal action being taken against them and shall inform them of the time limit for seeking redress, if any.

12 ANNUAL REPORT

The school board must indicate in its annual report:

- 1) the number of disclosures received by the Person in Charge;
- 2) the number of disclosures terminated under paragraph 3 of section 22 of the Act;
- 3) the number of founded disclosures;
- 4) the number of disclosures broken down by category of wrongdoing under section 4 of the Act;
- 5) the number of disclosures made under the first clause of section 23 of the Act.

If the school board does not produce an annual report, it shall use another means that it deems appropriate to make this information public once a year.

13 FINAL PROVISIONS

13.1 Interpretation compatible with the Act

The purpose 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 and it shall be interpreted accordingly. In the event of any inconsistency between this Procedure and the Act, the latter shall prevail.



13.2 Use of the masculine form

The sole purpose of using the masculine form in this Procedure is to simplify the text. In all cases, it refers to both women and men, where the context so requires.

13.3 Effective date

This Procedure will be effective on April 26, 2019.

13.4 Minor modifications

Any minor modification to this Procedure may be made by the Person in Charge who informs the Director General and the Council of Commissioners.

Any modification to the Appendices is considered minor.



APPENDIX 1: PREFERRED MODES OF COMMUNICATION

The preferred means of communication for making a disclosure and communicating with the Person in Charge confidentially in accordance with section 7.1 are as follows:

- Disclosure form provided for in Appendix 2:
 - Available on the school board's website;
 - To be completed and printed by providing all information available to the whistleblower;
 - To be sent to the Person in Charge:
 - **in a sealed envelope marked "Confidential".**
 - by post or internal mail by sending it to the:
Officer responsible for dealing with disclosures
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APPENDIX 2: DISCLOSURE FORM

(see form on the following page)



Disclosure of a wrongdoing

in accordance with the Procedure to facilitate the disclosure of wrongdoings

Fill in and print the form, providing all the information at your disposal. Send it to the Person in Charge in a sealed envelope marked "**Confidential**" by post or by internal mail by addressing it to "Officer responsible for dealing with disclosures, Secretariat General",
».

IDENTIFICATION	
First name	Last name
Are you a staff member of the school board? <input type="checkbox"/> yes <input type="checkbox"/> no If not, please contact the Quebec Ombudsman directly.	
A staff member is any person employed by the school board and who receives a salary or wages, whether permanent or casual. For the purposes hereof, persons who participate in the mission of the school board when they are performing duties, functions, work or other task, whether paid or unpaid, for the school board shall also be deemed to be staff members. These could include members of the Council of Commissioners and other committees in place within the school board, as well as volunteers working in its institutions.	

CONTACT INFORMATION FOR CONFIDENTIAL COMMUNICATION	
Indicate at least one (1) way of contacting you confidentially among the following ones. If not, we will have to treat your disclosure as anonymous and forward it to the Quebec Ombudsman.	
Telephone	Permission to leave a message? <input type="checkbox"/> yes <input type="checkbox"/> no
Email	
Mailing address	

PARTICIPANTS IN THE WRONGDOING			
First name	Last name	Title	
Contact information			<input type="checkbox"/> School board employee
First name	Last name	Title	
Contact information			<input type="checkbox"/> School board employee
First name	Last name	Title	
Contact information			<input type="checkbox"/> School board employee



DESCRIPTION OF THE FACTS	
Describe the facts observed:	_____

In which respect is it a wrongdoing:	_____

DESCRIPTION OF THE FACTS (cont'd)	
Potential impacts on the school board, the health or safety of individuals or the environment:	_____

If the act has not yet been committed, is it possible to prevent it? If so, how?	_____

DATE(S) AND PLACE	
<input type="checkbox"/> As of:	_____
<input type="checkbox"/> From:	_____ to: _____
<input type="checkbox"/> Repetitive nature. Specify:	_____
Place	

OTHER PEOPLE INVOLVED OR WITNESSES			
First name	Last name	Title	
Contact information			<input type="checkbox"/> School board employee
Role (witness, participant, etc.)			
First name	Last name	Title	
Contact information			<input type="checkbox"/> School board employee
Role (witness, participant, etc.)			
First name	Last 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 (manager, union, staff member) :

Fear or threat of reprisal:

Any other information relevant to the processing of the disclosure:

This information will only be accessible to the school board's Officer responsible for dealing with disclosures and to the staff he may be seconded by, as the case may be. This information will be kept confidential and may only be used and disclosed in accordance with the *Procedure to facilitate the disclosure of wrongdoing*.