

Chapter 4 Human Resources Management

4.10 Whistleblowing: Employee Disclosure of Wrongdoing

Policy Statement

Employees of the Atlantic Provinces Special Education Authority (APSEA) who may have serious concerns about improper activities or potential wrongdoing within the organization have the right and obligation to bring forward their concerns. APSEA will conduct a fair and timely investigation of alleged wrongdoing and will protect any employee from reprisal who makes a good faith disclosure under this policy.

Definitions

Fraud – As referenced in the Criminal Code of Canada and defined in the APSEA Fraud Policy: “Fraud” is the use of deception with the intent of obtaining an advantage, avoiding an obligation, or causing a loss to another party. Intention is the key element that distinguishes fraud from irregularity. Fraud does not just have a potential financial impact, but it can cause damage to the reputation of an organization responsible for managing funds effectively and efficiently. Fraud includes acts committed internally within APSEA as well as externally against APSEA.

Specific instances or indicators of fraud may include.

- Falsification or alteration of financial records, payroll records or employment records, without limitation, records relating to overtime and leave.
- Unauthorized use of an APSEA credit card.
- Unauthorized use of APSEA owned or leased vehicles and equipment.
- Intentional corruption of APSEA files or data.
- Reimbursement of non-legitimate expenses or unworked hours.
- Accepting bribes or kickbacks.
- Bid rigging or other forms of collusion with vendors.
- An employee or officer or contractor who has reasonable grounds to believe that they have a conflict of interest and intentionally fails to declare.
- Theft, misappropriation or other fraudulent use of public funds or property.
- Conversion of public funds or property to personal use.
- Intentional overbilling or short shipment by vendors.
- Offence under the Financial Administration Act.
- Intention to deceive by the suppression of truth or the suggestion of what is false.

This list is intended to be illustrative and not an exhaustive list.

Good Faith – For the purposes of this policy, “good faith” is evident when a report is made without malice or consideration of personal benefit, and the employee has a reasonable basis to believe that the report is true.

Investigation – The systemic and objective examination of the facts relevant to a complaint. An investigation may involve interviewing individuals as well as a review of physical evidence such as documents or emails.

Reprisal – Reprisal refers to action taken against an employee for making a report to APSEA in good faith, under this policy. Reprisal actions include:

- a disciplinary measure;
- demotion of the employee;
- termination of the employee;
- any measure that adversely affects the employee or working conditions of the employee; or,
- a threat to take any of the aforementioned measures.

Wrongdoing – Wrongdoing includes, but is not limited to:

- conduct that contravenes provincial or federal statutes or regulations;
- deliberate non-compliance with APSEA policies and procedures;
- any act or omission that creates a substantial and specific danger to the life, health or safety of a person or persons;
- knowingly directing or counselling a person to commit a wrongdoing; or
- taking reprisal action against an employee.

For the purposes of this policy, wrongdoing does not include complaints as defined by APSEA’s Respectful Workplace Policy. Any employee intending to make a report regarding respectful workplace/harassment matters should refer to that policy.

Policy Objectives

APSEA is committed to upholding the public trust and to ensuring the highest standards of behaviour. APSEA expects all employees, and others performing work on behalf of the organization, to always behave in an ethical and honest manner. Furthermore, APSEA believes that most of its employees are committed to acting professionally, with integrity, and in the best interests of children and youth and their families and the public. Any employee who may be aware of improper activity or wrongdoing is expected to make their concerns known. The purpose of this policy is to define a process which allows for the disclosure of wrongdoing to APSEA.

Application

This policy applies to APSEA employees, volunteers, Committee members, and any individual in a contractual relationship with APSEA.

Policy Directives

1. APSEA will make every reasonable effort to discourage wrongdoing and will establish and maintain internal controls to ensure, to the fullest extent possible, the prevention and detection of wrongdoing.
2. APSEA will not tolerate any misuse or misappropriation of its funds and assets.
3. Employees have the right and obligation to come forward if they believe that wrongdoing has taken place or is about to take place.
4. Where there are reasonable grounds, APSEA will investigate all incidents of suspected or alleged acts of wrongdoing in an impartial, fair, and timely manner.
5. APSEA will make every effort to ensure that confidentiality is maintained at all stages of the investigation for all individuals directly involved in the process unless the issue requires investigation by law enforcement or unless disclosure is required by law.
6. An anonymous report of suspected wrongdoing will only be acted upon if the evidence collected during the initial stage indicates the disclosure can be properly investigated.
7. All employees are expected to cooperate to the fullest extent possible in any investigation of an alleged wrongdoing.
8. When a wrongdoing is confirmed by an investigation, appropriate disciplinary action will be taken, up to and including termination of employment and/or contract.
9. In the event of potential criminal misconduct, the matter will be referred to the police.
10. Reprisals or threats of reprisals against employees acting in good faith are prohibited and APSEA will make every effort to ensure that such an employee is protected from harassment, retaliation, or adverse employment or contract consequence.
11. This policy provides for a disclosure process for APSEA employees. This policy does not affect or replace any other duty to make a report that is required or permitted under legislation, or where there is reason to believe there is imminent or serious danger to a person or persons.

12. This policy is in addition to, and not in substitution for, such rights as an individual may have under applicable collective agreements, the Human Rights Act, the Criminal Code of Canada, or any other APSEA policy. Nothing in this policy is intended to modify the Employer's right to manage its employees under any policy or collective agreement or to prohibit any disciplinary action which otherwise would have been taken.

Accountability

All APSEA Employees

APSEA employees are responsible to understand and follow all APSEA policies and documents related to media relations.

Superintendent/Directors/Supervisors/Managers

As members of the Leadership Team, these individuals are responsible for implementing APSEA's operational policies and any applicable documents. Members of the Leadership Team will take reasonable measures to bring this policy to the attention of all employees and to ensure directives are being followed.

Monitoring

- The Superintendent of APSEA or their designate will review this policy annually.

References

- 3.05 Fraud Policy
- 4.03 Respectful Workplace Policy
- 4.07 Conflict of Interest and Commitment Policy

This is an organizational policy designed to supplement other APSEA policies and is not intended to replace or preclude them. If a situation occurs where there is a conflict between application of this policy and any other APSEA policy, the policy most specific to the situation will apply.

Approval Dates

Approved: June 2021

Revised: