

## PROTECTED DISCLOSURE POLICY

### RATIONALE

The purpose of this policy is to provide information and guidance to employees of the school who wish to report serious wrongdoing within the school. This policy is issued in compliance with the Protected Disclosures Act 2000 and will apply from 1 January 2001. The policy consists of:

1. A definition of a protected disclosure.
2. A definition of serious wrongdoing that can be the basis for a protected disclosure by an employee.
3. Conditions for disclosure.
4. Information on who can made a disclosure.
5. Protections for employees making disclosures
6. A procedure by which an employee can make a disclosure.

### WHAT IS A PROTECTED DISCLOSURE?

A protected disclosure is a declaration made by an employee where they believe serious wrongdoing has occurred. Employees making disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure.

### DEFINITION OF SERIOUS WRONGDOING

Serious wrongdoing includes any serious wrongdoing of any of the following:

- An unlawful, corrupt or irregular use of funds or resources of a public sector organization; or
- An act or omission or course of conduct that constitutes a serious risk to public health or public safety or the environment; or
- An act, omission or course or conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation and detection of offences and the right to a fair trial; or
- An act, omission or course of conduct by a public official that is oppressive, improperly discriminatory or grossly negligent or that constitutes gross mismanagement; or
- Whether the wrongdoing occurs before or after the commencement of this Act.

## **CONDITIONS FOR DISCLOSURE**

Before making a disclosure, the employee should be sure the following conditions are met:

- The information is about serious wrongdoing in or by the school
- The employee believes, on reasonable grounds, the information to be true or is likely to be true.
- The employee wishes the disclosure to be protected.

## **WHO CAN MAKE A DISCLOSURE?**

Any employee of the school can make a disclosure. For the purposes of this policy, an employee includes:

- Current employees and principal;
- Former employees and principals; and
- Contractors supplying services to the school.

## **PROTECTION OF EMPLOYEES MAKING DISCLOSURES**

An employee who makes a disclosure and who has acted in accordance with the procedure outlined in this policy:

- May bring a personal grievance in respect of retaliatory action from their employers;
- May access the anti-discrimination provisions of the Human Rights Act in respect of retaliatory action from their employers;
- Are not liable for any civil or criminal proceedings, or to a disciplinary hearing by reason of not having made or referred to a disclosure; and
- Will, subject to Clause 5 of the Policy, have their disclosure treated with the utmost confidentiality.

The protections provided in this section will not be available to employees making allegations they know to be false or where they have acted in bad faith.

## **OBJECTIVES**

**Procedures for making a protected disclosure under the *Protected Disclosure Act 2000*:**

1. If on reasonable grounds you believe you have information that a serious wrongdoing is occurring (or may occur) within the school and you wish to disclose that information so it can be investigated you can make a protected disclosure to the principal.
2. This can be done verbally or in writing. You should identify that the disclosure is being made under the *Protected Disclosures Act* and is following the Board procedure, provide details of the complaint (disclosure) and who the complaint is against.
3. If you believe that the principal is involved in the wrongdoing or has an association with the person committing the wrongdoing that would make it inappropriate to disclose to them, then you can make the disclosure to the Chairperson of the Board of Trustees.
4. It is then up to the person you disclose to to decide if the disclosure constitutes a serious wrongdoing and that the allegations need investigating
  - (a) to investigate the disclosure themselves
  - (b) to forward the disclosure to the Board or a committee of the Board to investigate
  - (c) whether it needs to be passed on to an **appropriate authority**. If it goes to an appropriate authority they will advise you that they are now investigating the complaint.
5. If you believe that both the Principal and the Chairperson of the Board of Trustees may be party to the wrongdoing or in close relationship with the person/s involved in the wrongdoing you can approach an external “appropriate authority” direct yourself.

#### **Who is an “appropriate authority”?**

6. As noted above, in some circumstances the disclosure could be made to an appropriate authority by yourself or the person to whom you have made the disclosure. An appropriate authority is defined in the Act as including:
  - (a) includes:
    - (i) The Commissioner of Police
    - (ii) The controller and Auditor-General
    - (iii) The Director of the Serious Fraud Office
    - (iv) The Inspector-General of Intelligence and Security
    - (v) An Ombudsman
    - (vi) The Parliamentary Commissioner for the Environment
    - (vii) The Police Complaints Authority
    - (viii) The Solicitor-General
    - (ix) The State Services Commissioner
    - (x) The Health and Disability Commissioner

- (b) includes the head of every public sector organization, whether or not mentioned in paragraph (a).
7. Clause (b) can mean that in certain circumstances the appropriate authority could be the Secretary of Education of the Ministry of Education (MOE) or the Chief Review Officer of the Education Review Office (ERO).

### **Why can't I just go to the appropriate authority myself?**

8. There are three circumstances when you can go directly to the appropriate authority:
- (a) When you believe that the head of the organization is also party to the wrongdoing or has an association with the person which would make it inappropriate for them to investigate.
  - (b) If the matter needs urgent attention or there are other exceptional circumstances.
  - (c) If after 20 working days there has been or action or recommended action on the matter to which the disclosure related.

Otherwise you need to go through the internal processes.

### **What happens if even the appropriate authority does nothing?**

9. You could then make the disclosure to the Ombudsman (unless they were the authority you have already disclosed to) or a Minister of the Crown.
10. The Act does not protect you if you disclose information to the media or a member of parliament other than a Minister of the Crown in the circumstances referred to above.

### **Where can I find out more information?**

11. If you notify the Office of the Ombudsman verbally or in writing that you have disclosed or are considering a disclosure under this Act, they must provide information and guidance on a number of matters including those discussed here and the protections and remedies available under the *Human Rights Act 1993* if the disclosure leads to victimization.
12. A copy of the Act can be found on the internet at New Zealand Legislation website: <http://www.legislation.govt.nz/act/public/1993/0082/latest/whole.html#DLM304212>.

Click on "P" then scroll down to the Protected Disclosures Act 2000.

**Disclosure Format**

13. The disclosure should be made in writing.
14. Information to be contained (ie the disclosure should contain detailed information including the following):
  - The nature of the serious wrongdoing;
  - The nature or names of the people involved; and
  - Surrounding facts including details relating to the time and/or place of the wrongdoing if known or relevant).

**Where to send disclosures**

15. A disclosure must be sent in writing to the Principal who has been nominated by the Board of Otumoetai Intermediate School under the provision of Section 11 of the Protected Disclosures Act 2000 for this purpose; or
16. If you believe that the Principal is involved in the wrongdoing or has an association with the person committing the wrongdoing that would make it inappropriate to disclose to them, then you can make the disclosure to the Board Chair (last resort person, eg Chair of the Board).