

BAYFIELD HIGH SCHOOL PROTECTED DISCLOSURES

1. What is a protected disclosure?

- 1.1 A protected disclosure is a declaration made by an employee where they genuinely believe serious wrongdoing has occurred. Employees making such disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure.
- 1.2 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.

2. Definition of “serious wrongdoing”

For the purpose of this policy, “serious wrongdoing” includes any of the following:

- unlawful, corrupt or irregular use of public funds or resources
- an act or commission or course of conduct which:
 - risks public health, or safety, or the environment;
 - constitutes a serious risk to maintenance of the law, including the prevention, investigation and detection of offences and the right to a fair trial;
 - is a statutory offence;
 - is oppressive, improperly discriminatory, grossly negligent or constitutes gross mismanagement.

3. Who can make a disclosure?

Any employee of the school can make a disclosure. For the purposes of this policy, “employee” includes current and former employees and principals, and contractors supplying services to the school.

4. Conditions for protection of disclosures

Before making a disclosure, an employee must ensure that all of the following conditions are met:

- the information is about serious wrongdoing in or by the school;
- the employee believes on reasonable grounds the information be true or is likely to be true;
- the employee wishes the wrongdoing to be investigated; and
- the employee wishes the disclosure to be protected

A disclosure will not be protected if:

- the employee making the disclosure knew the allegation to be false, or acted in bad faith;
- the information being disclosed is protected by legal professional privilege.

5. Protection of employees making disclosures

- 5.1 An employee who makes a disclosure, who has met the conditions for the protection of disclosures, and who has acted in accordance with the procedure outlined below:

- may bring a Personal Grievance in respect of retaliatory action from their employer;
 - may access the anti-discrimination provisions of the Human Rights Act in respect of retaliatory action from their employer;
 - is not liable for any civil or criminal proceedings, or to a disciplinary hearing by reason of having made a referral or disclosure;
 - will, subject to Clause 5 of the procedures, have their disclosure treated with the utmost confidentiality.
- 5.2 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.

6. Procedure for making a protected disclosure

- 6.1 The disclosure should be in writing using the appropriate form.
- 6.2 The disclosure must contain the following details:
- The nature of the serious wrongdoing
 - The name or names of the people involved
 - Any other facts considered important or relevant, including details relating to the time and/or place of the wrongdoing.

7. Who to submit the disclosure to

- 7.1 The disclosure must be on the appropriate form and be submitted to the Principal who has been nominated by the Board of Trustees under the provisions of Section 11 of the Protected Disclosures Act 2000 for this purpose.
- 7.2 Should the employee 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, the disclosure can be submitted to the Chairperson of the Board of Trustees.

8. Decision to investigate

- 8.1 On receipt of the disclosure the Principal (or Board Chairperson, if appropriate) must, within 20 working days, examine seriously the allegations of wrongdoing made and decide whether a full investigation is warranted.
- 8.2 If warranted, a full investigation will be undertaken by the Principal/Board Chairperson, or arranged as quickly as practically possible through an appropriate authority.

9. Protection of disclosing employee's name

- 9.1 All disclosures must be treated with the utmost confidentiality.
- 9.2 When undertaking an investigation and when writing the report, the Principal/Board Chairperson will make every effort not to reveal information that could identify the disclosing person, unless the disclosing person gives written consent to being identified or if the person receiving the protected disclosure reasonably believes that disclosure of identifying information is essential to:
- ensure an effective investigation;

- prevent serious risk to public health or public safety or the environment;
- have regard to the principles of natural justice.

10. Report of investigation

At the conclusion of any investigation the Principal/Board Chairperson will prepare a report of the investigation, with recommendations for action if appropriate, which will be sent to the Board of Trustees.

11. Disclosure to an appropriate authority in certain circumstances

11.1 A disclosure may be made to an appropriate authority (including those listed below) if the employee making the disclosure has reasonable grounds to believe:

- Principal/Board Chairperson may be involved in the wrongdoing;
- Immediate referral to another authority is justified by urgency or exceptional circumstances;
- There has been no action or recommended action within 20 days of the date of the disclosure.

11.2 An “appropriate authority” could include, but is not limited to:

- Commissioner of Police
- Controller and Auditor General
- Director of the Serious Fraud Office
- Inspector General of Intelligence and Security
- Ombudsman
- Parliamentary Commissioner for the Environment
- Police Complaints Authority
- Solicitor General
- State Services Commissioner
- Health and Disability Commissioner
- The Head of any public sector organisation

11.3 A disclosure may be made to an Ombudsman or a Minister of the Crown if:

- the employee making the disclosure has followed the procedures in the policy;
- continues to believe on reasonable grounds that the information disclosed is true or likely to be true; and
- reasonably believes that the person to whom the disclosure was made:
 - has decided not to investigate;
 - has begun an investigation but has made no progress with it within a reasonable time;
 - or
 - has investigated but has not taken or recommended any action.

Date of last review

31 December 2014

Policy Area

NAG 3 (Personnel) and NAG 5 (Health and Safety)

Related legislation

Protected Disclosures Act 2000 (as amended)

State Sector Act 1988 (as amended)

Employment Health & Safety Act 1992 (as amended)

Education Act 1989 (as amended)

