

# MAHANA SCHOOL PROCEDURE

## PROTECTED DISCLOSURES

### Rationale

The purpose is to provide information and guidance to employees of Mahana School who wish to report serious wrongdoing within the school. This procedure is written in compliance with the Protected Disclosures Act 2000 (the Act) and the Ministry of Education circular 2000/29, dated November 2000.

The procedure consists of:

- A definition of protected disclosure
- A definition of serious wrongdoing that can be the basis for a protected disclosure by an employee
- Conditions for disclosure
- Information on who can make a disclosure
- Protection of employees making disclosures
- A procedure by which an employee can make a disclosure

### Definition of 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 relating to the disclosure.

### Definition of Serious Wrongdoing

Serious wrongdoing for the purposes of this procedure includes any of the following:

- Unlawful, corrupt or irregular use of public funds or resources
- An act or omission or course of conduct:
  - Which seriously risks public health or safety or the environment, or
  - That constitutes an offence, or
  - That is oppressive, improperly discriminatory, grossly negligent or constitutes gross mismanagement, or
  - Constitutes a serious risk to the maintenance of law.

### Conditions for Disclosures

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

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

### Who can make a Disclosure?

Any employee of Mahana School can make a disclosure. For the purposes of this procedure, an employee includes:

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

### Protection of employees making disclosures

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

- 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 having made or referred to a disclosure
- Will, subject to Clause 5 of the following procedure have their disclosure treated with utmost confidentiality.

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

## **Procedure for Making a Protected Disclosure**

Any employee of Mahana School who wishes to make a protected disclosure should do so using the following procedure.

### **1. How to submit a disclosure**

The disclosure must be in writing and contain the following information:

- The name and contact details of the person making the protected disclosure
- The nature of the serious wrongdoing
- The name or names of the people involved
- The surrounding facts including details relating to the time and/or place of the wrongdoing (if known or relevant)
- Any outcome or consequence of the serious wrongdoing (if known or relevant)

### **2. Where to send the disclosure**

A disclosure must be sent to the Principal who has been nominated by the Board of Trustees of Mahana School under provision of section 11 of the Act. If you believe that the Principal is involved in the serious 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 Mahana Board of Trustees Chairperson.

### **3. Decision to investigate**

The person in receipt of a disclosure must within 20 working days examine seriously the allegations of wrongdoing made and decide whether a full investigation is warranted. If warranted, a full investigation will be undertaken by the Principal and/or the Chairperson or arranged by them as quickly as practically possible through an appropriate authority.

### **4. Protection of disclosing employees name**

All disclosures will be treated with the utmost confidence. When undertaking an investigation and when writing the report, every endeavour will be made not to reveal information that can identify the disclosing person, unless the person consents in writing or if the person receiving the protected disclosure believes that disclosure of the identifying information is essential:

- To ensure an effective investigation
- To prevent serious risk to public health, public safety or the environment
- To have regard to the principles of natural justice

### **5. Report of investigation**

At the conclusion of the investigation, a report of the investigation with recommendation for action (if appropriate) will be sent to the Mahana School Board of trustees.

### **6. Disclosure to an appropriate authority in certain circumstances**

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

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

Appropriate authorities include (but are 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 every public sector organisation

## **7. Disclosures to Ministers and Ombudsmen**

A disclosure may be made to a Minister or Ombudsman if the employee making the disclosure:

- Has made the same disclosure according to the internal procedures and clauses of the procedure and believes that the person or authority to whom the disclosure was made:
  - Has decided not to act, or has decided to investigate but has not made progress with the investigation within a reasonable timeframe, or
  - Has investigated but has not taken or recommended any action, and
- Continues to believe on reasonable grounds that the information disclosed is true or likely to be true.

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