

Ontario Public Library

Policy 2091

DISCLOSURE OF WRONGFUL CONDUCT AND PROTECTION FROM REPRISAL

The Trustees of the Ontario Public Library have adopted this policy to provide direction to library employees (including trustees) of their responsibilities to disclose wrongful conduct and to protect the good faith disclosure by library employees of alleged wrongful conduct in the library or related to library operations to the Library Director, or other appropriate Library Trustee.

The Trustees encourage employees to disclose serious breaches of conduct covered by policies or regulations of the library or violations of law such as theft or fraud. The Trustees further protect employees from reprisal by adverse employment action as a result of disclosing wrongful conduct and will provide individuals who believe they are subject to any such reprisal with a fair process to seek relief from retaliatory acts.

Standards of Conduct and Behavior

The Trustees have developed policies, regulations and procedures for standards of conduct and behavior. Library employees are expected to abide by applicable state and federal laws.

Library employees cannot be compelled by a supervisor or Library Trustee to violate a library policy, regulation, public policy or applicable law.

In the interests of the library, a library employee who has particular knowledge of specific acts which he or she reasonably believes constitute wrongful conduct should disclose the conduct to the appropriate library official as defined in this policy.

If an adverse employment action is taken against a library employee in knowing retaliation for his or her good faith disclosure of information to a designated library official concerning alleged wrongful conduct, as defined in this policy, and if the employee's work performance or behavior did not warrant the adverse action, the library shall take remedial action for the employee and corrective action against the supervisor.

Handling Disclosures and Complaints

The Library Director, or his or her designee, shall develop regulations and administrative procedures for handling disclosures and for responding to complaints of reprisal or retaliation that conform with guidelines established in this policy. Each library employee will receive a copy of this policy and related regulations at the time of their employment.

Each library employee who has responsibilities for fiscal accounting and/or handling cash or library funds will receive a copy of this policy and related regulations on an annual basis at the time of their appointment to such positions. Additional notifications of this policy and related regulations will be posted in the staff work area.

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Review of Policy and Procedures

The Trustees of the Ontario Public Library shall review this policy as part of their required annual policy review.

Wrongful Conduct

Wrongful conduct is defined in this policy is defined as:

- theft of library funds, property, resources or authority, or fraud, or the use of library money, property, resources, or authority for personal gain or other purposes non-related to library operations except as provided under policies and regulations of the Trustees;
- a serious violation of library policy, regulation or procedures;
- any serious violation of applicable state and federal laws

Disclosure and Investigation of Wrongful Conduct (NY Not-for-Profit Law, §715-b Whistleblower Policy)

The Trustees have policies, regulations and procedures for maintaining standards of conduct and the steps to follow for disclosure of violations of those items that include, but are not limited to policies of the library related to:

- the protection of money, resources and services of the library, petty cash and other funds,
- conflicts of commitment and interest,
- prohibiting sexual harassment,
- discrimination.

In matters relating to wrongful conduct as defined above, mismanagement of library resources, or abuse or authority, which is not covered by specific policies of the library, the Trustees shall appoint an attorney for the library, the independent auditor or the Library Director (the appointee”) to receive such disclosures and to ensure that an investigation is conducted of the alleged disclosure of wrongful conduct (a “disclosure investigation”).

The appointee of the Trustees who receives an alleged disclosure of wrongful conduct shall:

- (1) keep the identity of the person(s) making the disclosure confidential;
- (2) maintain a written record of the allegation;
- (3) conduct an investigation or ensure that the appropriate law enforcement or other personnel investigates the disclosure;
- (4) notify the Trustees at a time considered appropriate by the appointee.

In matters of disclosure, the appointee of the Trustees will make all reasonable attempts to maintain the confidentiality of the identity of the employee making the disclosure as long as such

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confidentiality does not interfere with the conduct of any investigations of the specific allegations or taking corrective action. In the event that the identity of the employee making the

disclosure is known, the appropriate designee will, at the conclusion of the investigation, provide written notification to the employee(s) who made the disclosure of the determination and retain a copy of same.

Where an individual has knowledge that he or she is the subject of an investigation for wrongful conduct, that individual should be notified of the determination of the disclosure investigation at a time considered to be appropriate by the designee so that any notice would not compromise any further actions deemed appropriate by the investigating officer.

It should be noted that a disclosure warranting a disclosure investigation is not the same as making a complaint of reprisal for disclosure. Such a complaint for reprisal of disclosure requires an adverse employment action as a result of the disclosure before it can be pursued as a complaint of reprisal.

Complaints of Reprisal

An employee who has been subjected to an adverse employment action based on his or her prior disclosure of an alleged or actual wrongful conduct may contest the action by filing a written complaint of reprisal with the President of the Trustees. The President of the Trustees, or his or her designee, will review the complaint in an expeditious manner to determine whether:

- (1) the complainant made a disclosure of alleged wrongful conduct before an adverse employment action was taken the responding party could reasonably have been construed to have any knowledge of the disclosure and the identity of the disclosing employee,
- (2) the complainant has, in fact, suffered an adverse employment action after having made the disclosure,
- (3) the complainant alleges that adverse employment action occurred as a result of the disclosure.

If the designee determines that all of the above elements are present within thirty (30) days from the receipt of the complaint, the designee should appoint a review officer or panel to investigate the claim and make a recommendation to the Director to whom the designee reports.

In those situations where the impartiality of the review officer or panel is in question, and sufficient factual basis exists to support external review, the designee should request a review by an external party. In this case, the costs are a charge incurred by the Library. The Library can define the standards for the review process.

At the time of the appointment of a review officer or panel, the designee should inform, in written form, the complaining and responding parties of the:

- (1) intent to proceed with an investigation
- (2) specific allegations to be investigated

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- (3) appointment of the review officer or panel
- (4) of their opportunity to support or respond to the allegations

Once the review officer or panel has conducted a review and considers the investigation as complete, the review officer or panel will notify the designee.

From the date of notice of completion, the review officer has thirty (30) day to report his or her findings and make any recommendations he or she deems appropriate to the designee.

The designee, in conference with the appropriate administrator, should issue a letter of findings to both the complainant and the respondent.

A decision at this stage is subject to appeal on procedural grounds only.

Nothing in this policy is intended to interfere with legitimate employment decisions.

SHORT VERSION

Whistleblower Protection Policy

Any Ontario Public Library staff member or volunteer who reports waste, fraud, or abuse at the Library will not be fired or otherwise retaliated against for making the report.

The report will be investigated and if determined not to be waste, fraud or abuse, the individual making the report will not be retaliated against for making the report. There will be no punishment for reporting problems—including firing, demotion, suspension, harassment, failure to consider the employee for promotion, or any other kind of discrimination.

To report suspected waste, fraud or abuse a written report should be filed with the Library Director. If it would be inappropriate to make the report to the Library Director, a report may be filed with any Executive Board Member, the President, Vice-President, Secretary or Treasurer .

An appropriate investigation will be undertaken and report summarizing findings will be provided to the person making the report. Steps will be taken to deal with the issue, and if warranted, law enforcement personnel will be contacted.

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