

# NSCC Safe Disclosure Policy “Whistleblowing”

## Frequently Asked Questions

### Employees who are the Respondent (the subject of an investigation)

#### What is the NSCC Safe Disclosure Policy?

The Safe Disclosure Policy “Whistleblowing” is intended to encourage and enable members of the College Community to voice concerns internally in a responsible and effective manner when they discover information about Improper Activity which they have reasonable basis to believe has occurred or is occurring within NSCC.

#### Why did the College develop this policy?

As a publically funded institution NSCC is committed to ensuring the public trust in the effective stewardship of the College working and learning environment. NSCC operates with the utmost integrity and is committed to responding to any disclosure of wrongdoing, and to protecting from retaliation any individual who in good faith, discloses improper activity occurring within NSCC.

#### Who can “blow the whistle”?

All members of the NSCC community, which includes, but is not limited to:

- All NSCC employees (regardless of status);
- NSCC Board of Governors;
- Any individual or stakeholder in a contractual relationship with NSCC;
- Students (full-time, part-time, online and apprenticeship, etc.);
- Invited guests;
- College committees, councils or associations;
- Union partners; and
- Volunteers.

#### What kinds of activities are potentially subjects of disclosure under the Policy?

Individuals are encouraged to disclose Improper Activity as defined by the Policy. Improper Activity includes any activity related to the public interest and may consist of one or all of the following:

- **Improper Activity:** Improper Activity is conduct which includes one or more of Official Misconduct, Maladministration, significant misuse of public resources, or creation of a significant danger to public health or safety. This includes directing or counselling someone to engage in Improper Activity. Improper Activity does not include decisions of policy, business or administration, about which reasonable people might disagree.
- **Maladministration:** Maladministration is defined as failure to act, or conduct intended to cover up an act, in a way that is unlawful, unjust, discriminatory or improper, and which adversely impacts someone's interests in a substantial and specific way, or adversely impacts the brand and reputation of the College.
- **Official Misconduct:** Official misconduct is wrongdoing by a member of NSCC community in carrying out their duties or exercising their authority that may be a criminal offence or is otherwise serious enough that it may justify dismissal if proven. Examples include dishonesty, theft, lack of impartiality when awarding or expending College resources, breach of trust placed in a person by virtue of their position, or misuse of officially obtained information.

**If I've been accused of committing an Improper Activity under the Policy, and an investigation will take place, will I have the opportunity to explain my actions?**

Yes, but keep in mind that the decision to conduct an investigation is not an accusation – it is a neutral, fact finding process. You will be given opportunities for input during the investigation, and you will be given opportunities to respond to material points of evidence to be used in the investigation unless there are compelling reasons not to do so.

**Do I have the right to know who made the accusation against me?**

No. The foundation of Safe Disclosure is to encourage and enable members of the College Community to voice concerns internally in a responsible and effective manner.

No person is entitled to information regarding the identity of the person making the disclosure, person(s) involved in the investigation or the individual(s) or the person(s) who is the subject of disclosure. That being said, NSCC cannot guarantee complete anonymity to persons participating in an investigation, and may be required to release identifying information to comply with legal or other obligations (i.e. referral of the matter to an external agency for further investigation or prosecution).

**If I am the subject of an investigation, can I consult a lawyer?**

You have the right to consult with anyone you choose. You also have the right to be accompanied by an observer during any meeting or interview. The investigator shall advise you of this right in advance of any meeting requested by the investigator. Any third party, however, is expected to act in accordance with this Policy and Procedures and to protect the confidentiality and sensitivity of all parties involved. Their role in any meeting is strictly that of observer. Additionally, the observer may not have any conflict of interest.

**If I am the subject of an investigation, can my union representative act on my behalf?**

As above, you have the right to consult with anyone you choose, including your union representative.

You have the right to be accompanied by an observer - including a Union representative, where applicable, during any meeting or interview. The investigator shall advise you of this right in advance of any meeting requested by the investigator. Any third party, however, is expected to act in accordance with this Policy and Procedures and to protect the confidentiality and sensitivity of all parties involved. Their role in any meeting is strictly that of observer. Additionally, the observer may not have any conflict of interest.

**Will I be informed of the outcome of the investigation?**

Yes, you have the right to be informed of the outcome of the investigation. The Discloser will also be informed of the outcome of the investigation however, any action taken as a consequence of the findings of the investigation related to you (i.e. discipline) is considered personal and confidential and will not be released to the Discloser.

**If I am the subject of an investigation, what happens to me if the allegations are not substantiated?**

At the conclusion of the investigation process, all records will be forwarded Director of Human Resources, or their designate. These records will be stored separately and treated with the strictest confidence. No documentation will appear on your official employment file. If circumstances warrant it, you may be consulted as to whether a statement of the investigation results would be in the College's and your best interests.

**Does anything happen to the whistleblower if the allegations are not substantiated?**

If the whistleblower/discloser had a reasonable belief that an Improper Activity had occurred and made a good faith report it is considered a protected disclosure under the Safe Disclosure Policy.

While the motivation of the discloser is irrelevant to the consideration of the validity of the allegations, the intentional filing of a false report or the willful misuse or abuse of the Policy will result in disciplinary action up to and including termination of employment.

**If I am the subject of an investigation and the allegations are substantiated, what happens to me?**

At the conclusion of the investigation process, if there is a finding of Improper Activity, then appropriate action will be determined by the Director of Human Resources in consultation with senior leadership.

Recommendations may include one or a combination of:

- development of, or changes to policy, guidelines, procedures or practices;
- correction of records;
- referral of matter to an external agency for further investigation or prosecution;
- system changes;
- development of educational or training for employees;
- disciplinary action up to and including termination of employment.