



Whistleblower Policy

Foundation for Life

Whistleblower Policy

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Whistleblower Policy

Introduction

1.1 Rationale

At Coast Christian School (referred to in this Policy as the 'School'), we are dedicated to the highest standards of integrity and conduct, including those underpinning the School Values and Codes of Conduct. We are open to identifying and/or being advised of wrongdoing that may not otherwise be uncovered unless we provide a safe and secure way for it to be disclosed. The School encourages the disclosure of actual or suspected unethical, illegal, fraudulent or undesirable conduct, and provides protections so that those who make a disclosure can do so confidentially and without fear of intimidation, disadvantage or reprisal.

1.2 Policy Purpose

The purpose of this Policy is to provide a process for the School so that information about wrongdoing can be disclosed in a safe, secure and timely manner and where the discloser can do so with confidence that protection and support will be provided. This Policy promotes transparency around the School's approach for receiving, handling and investigating disclosures. In addition, the School seeks to comply with legal and regulatory obligations, recognising that when a 'Protected Disclosure' is made, the person making the disclosure is protected and recognised by law.

1.3 Who Does This Policy Apply To?

This Policy applies to 'Protected Whistleblowers' [as defined under the Corporations Act 2001 (Cth) (Referred to in this policy as the 'Corp Act') and, if applicable, under the Taxation Administration Act 1953 (Cth) (Referred to in this policy as the 'Tax Admin Act')] (Please refer to Section 2 below). This Policy sets out the management of Whistleblowing disclosures and protections afforded to Protected Whistleblowers.

1.4 Who Does This Policy NOT Apply To?

Any person who falls outside the definitions of 'Protected Whistleblower' is not covered by this Policy and therefore does not receive the Protections provided for in this Policy. Persons not protected may communicate concerns to the School in accordance with other Policies as

appropriate (e.g. [Anti-discrimination, Harassment and Victimisation Policy and Procedures](#), [Complaints & Grievances Policy](#), [Complaints Handling Procedures – Staff Misconduct Reportable Conduct](#) etc).

1.4.1 Option to Obtain Legal Advice

Anyone who wishes to make a disclosure, but is either not a ‘Protected Whistleblower’ or is unsure if their circumstances fit within the definitions provided in this Policy, is recommended to seek legal advice first before making a disclosure, because they may be Unprotected under this Policy and/or bylaw if the right processes are not followed.

1.5 Responsibilities

The School Board of Directors (The Board) is responsible for setting this Policy in place and approving it. The Board is also responsible for monitoring implementation of this Policy to ensure that disclosures are appropriately processed and a Whistleblower is protected as required by law. The Company Secretary is responsible for ensuring that The Board members are given refresher training on this policy biennially.

The School Principal is responsible for implementation of this policy School wide, and may delegate responsibilities under this possible if required. The Principal is responsible for ensuring that staff members are given refresher training on this policy biennially.

1.6 Distribution of this Policy

This policy is to be made available to all staff, contractors, volunteers and visitors at the School at the time of their engagement and/or employment with the School. It is also to be made publicly available on the School’s website: coastcs.nsw.edu.au/information-and-policies/. A paper copy of this Whistleblower Policy is available from the School Office upon request for all School Community Members.

1. Are you a ‘Protected Whistleblower’?

2.1 Who Qualifies as a ‘Protected Whistleblower’?

A Protected Whistleblower is:

- an **‘Eligible Person’** (defined below) who
- has disclosed - or intends to - disclose a **‘Reportable Matter’** (defined below)

- to an **'Eligible Disclosure Recipient'** (defined below) or
- to the Australian Securities and Investments Commission (ASIC) or
- to the Australian Prudential Regulation Authority (APRA) or
- to another entity prescribed under the Corporations Act or
- to a lawyer for the purpose of seeking legal advice on Whistleblowing Protection laws.

2.2 Who Qualifies as an 'Eligible Person'?

An Eligible Person is a person who is, or has been, any of the following:

- an officer or employee of the School, and this includes current and former employees who are permanent, part-time, fixed-term or temporary, interns, managers and directors; or
- a person who supplies goods or services to the School or an employee of a such a person (whether paid or unpaid), and this could include current and former volunteers, contractors, consultants, service providers and business partners; or
- a person who is an associate of the School (as defined in the Corp Act) - for example, a company director or company secretary or a related body corporate of the School; or
- a relative, dependent, or dependent of the spouse of any person referred to above.

2.3 What is a 'Reportable Matter' and 'Protected Disclosure'?

A Reportable Matter is a legally protected form of disclosure (referred to as a **'Protected Disclosure'**) where an Eligible Person has *reasonable grounds to suspect* that the information being disclosed is about:

- misconduct (including fraud, negligence, default, breach of trust and breach of duty);
- an improper state of affairs or circumstances;
- illegal activity including;
 - a breach of the Corp Act; or
 - a breach of the Tax Admin Act; or
 - an offence against any law of the Commonwealth punishable by imprisonment of twelve months or more; or
- improper conduct that represents a dangers to the School's financial system (For example, improper financial reporting or accounting practices).
- Improper conduction that represents a danger to School Community Members (including practices that are or have the potential to be serious risks to the health and safety of people at School);

If the information being disclosed is not about a Reportable Matter, the Eligible Person does not meet the terms of the Whistleblower Policy and will not qualify for Whistleblower Protection under the Corp Act or the Tax Admin Act.

2.3.1 Exception to 'Reportable Matter'

Personal work-related grievances that do not involve a detriment, or a threat of detriment, which is caused as a Protected Whistleblower do not qualify as a Reportable Matter and therefore are not protected under the Corp Act or Tax Admin Act, or this Policy.

A personal work-related grievance is one that relates to current or former employment and has implications for a person personally.

An example of a work-related grievance that does not qualify for protection under this policy could include not being selected for a promotion, or disagreeing with the approach or style of a manager or supervisor.

However, a work-related grievance may qualify for protection under this policy in limited circumstances, including if:

- it is a mixed disclosure that not only includes information about a Reportable Matter under this Policy, but also includes information about a personal work-related grievance;
- The School has broken employment or other laws which are punishable by imprisonment for 12 months or more or acted in a way that is a threat to public safety;
- the disclosure relates to information that suggests misconduct that goes further than the Whistleblower's personal circumstances; or
- a Whistleblower suffers from, or is threatened with, detriment for disclosing a Reportable Matter.

2.4 Who Qualifies as an 'Eligible Disclosure Recipient'?

An Eligible Disclosure Recipient is one of the following:

- an officer (eg a Board Director, Company Secretary or Public Officer) of the School; or
- the senior manager of the School (ie the Principal); or
- an internal or external auditor of the School.

2.4.1 The School's Preferred Eligible Disclosure Recipient

Whilst any of the Eligible Disclosure Recipients can receive a disclosure, the School prefers

that disclosures be made directly to the Board Chair: boardchair@coastcs.nsw.edu.au, or if the matter involves the Board Chair, then to the Deputy Board Chair: matthew.johnson@coastcs.nsw.edu.au.

2.4.2 Legal Assistance for Eligible Disclosure Recipients

It is critical that an Eligible Disclosure Recipient handles a Whistleblowing Disclosure properly in order to protect the Whistleblower, protect the School and protect the Eligible Disclosure Recipient from mismanaging the situation and potentially being exposed to significant penalties.

For this reason, Eligible Disclosure Recipients at the School (including its Auditor) are authorised **and required** by the School to obtain telephone legal advice, fully paid by the School up to a maximum of one hour, to determine what next steps the Eligible Disclosure Recipient may take in the particular circumstances of a Whistleblowing Disclosure.

The approved law firm is [Penmans Solicitors](#), Gosford, or another law firm recommended by Penmans Solicitors.

The Eligible Disclosure Recipient can quote and/or present this Policy as confirmation of the School's undertaking to pay the legal invoice for up to one hour of advice time.

2.4.3 Public Interest or Emergency Matters

In specific and limited circumstances where a matter is of public interest or there is an emergency, a disclosure may be protected under this policy if it's made to a journalist or a member of Parliament. The criteria to fit these special categories is very particular and it is recommended that legal advice be obtained in order to ensure Whistleblower Protections are assured, before making any public interest or emergency disclosure. Disclosures that do not fit the definition of 'public interest' or 'emergency' will not be protected under this policy.

2. Making a Protected Disclosure

3.1 Who Can Receive A Protected Disclosure?

A Disclosure can be made to:

- An Eligible Disclosure Recipient (outlined in Section 2.4 above); or
- ASIC; or
- APRA (not relevant in the School's context); or
- Commissioner of Taxation; or

- Any other authority prescribed by law such as a Commonwealth Authority
- A legal practitioner by an Eligible Person for the purpose of obtaining additional information about whistleblower protections before formally making a disclosure to one of the above recipients.

3.2 How Can a Disclosure be Made?

Disclosures can be made to any Eligible Disclosure Recipient in person or by telephone, post or email and disclosures can be made within business hours or outside business hours.

If a disclosure is made to a person who is not an Eligible Disclosure Recipient, protections for the Whistleblower are not available.

3.3 Anonymity When Disclosing

A Protected Whistleblower may choose to remain anonymous when disclosing a Reportable Matter, over the course of the investigation and after the investigation is finalised – there is no obligation to self-identify.

However, it may simplify the process if the Whistleblower's name and contact details are shared, especially so that communication channels can be open for the purposes of receiving further information if required, and for providing information about an outcome following any investigation.

If a Protected Disclosure is received at the School without the Whistleblower's identity being known, the Protected Disclosure will be treated in the same way as if the Whistleblower's identity had been revealed, however it is possible some practical limitations might arise – for example, not being able to progress an investigation if the Whistleblower cannot be contacted to provide clarifying information about the disclosure. The School therefore encourages consideration by the Protected Whistleblower to provide anonymous contact details, such as an anonymous email address, if possible and appropriate for the Protected Whistleblower. This will also allow the Protected Whistleblower to receive updates on the investigation – It is highlighted that the Whistleblower is under no obligation to provide anonymous contact details.

3.4 False Reports

A Protected Whistleblower may still qualify for Protection for disclosing a Reportable Matter, even if the disclosure turns out to be incorrect.

However, anyone who knowingly makes a false disclosure, or who otherwise fails to act honestly with reasonable belief in respect of the disclosure, may be subject to disciplinary action - including dismissal, and potentially criminal and/or civil actions.

3. Whistleblower Protections

4.1 Whistleblower Protections

4.1.1 Confidentiality

Disclosures from Protected Whistleblowers will be treated confidentially and sensitively.

Once a disclosure is received, the Eligible Disclosure Recipient will make sure immediate steps are taken to protect the identity of the Protected Whistleblower. This will include redacting the name and position of the Protected Whistleblower from any written record of the disclosure, and making sure appropriate document security (including handling and record storing) is implemented.

It is illegal for a person to identify Protected Whistleblowers or to release or share information that is likely to lead to their identification.

If you are a Protected Whistleblower, your identity and position (or any other information which would be likely to identify you) will only be shared if:

- you consent in writing to the information being shared;
- the disclosure was made to a Recipient permitted by law, for example, the Commissioner of Taxation or Australian Federal Police; or
- such sharing is allowed or required by law (for example, the School could share the identify of a Whistleblower to its lawyer in order to receive legal advice relating to the law on Whistleblowing – but note that the School's lawyer is then required to hold that information confidentially); or
- information likely to identify a Protected Whistleblower may be shared if it is reasonably

necessary for the purposes of an investigation, but if this situation arises, the School will take all reasonable steps to mitigate the risk that the Whistleblower might be identified.

4.1.2 Protection against Victimisation and Detrimental Treatment

It is illegal for any person to engage in conduct that causes, or threatens, detrimental treatment to a Protected Whistleblower - including in the belief or suspicion that a person has made or proposes to make a disclosure of a Reportable Matter - and where that belief or suspicion is a reason for such conduct.

Detrimental treatment includes, but is not limited to:

- dismissal
- demotion
- harassment
- damage to reputation
- discrimination
- disciplinary action
- bias
- threats; or
- other unfavourable treatment connected with making a disclosure as a Protected Whistleblower.

4.2 How the School Will Protect Whistleblowers

To protect Protected Whistleblowers from detrimental treatment, the School will:

- ensure that Reported Matters are treated sensitively and confidentially;
- ensure Protected Whistleblowers are not subjected to detrimental treatment as a result of making, or intending to make, a disclosure under this Policy;
- make an assessment of the risk of detriment against a Protected Whistleblower as soon as possible after receiving a disclosure of a Reportable Matter;
- make sure the School's Board and Management are aware of their responsibilities to maintain the confidentiality of a Protected Whistleblower, address the risks of detriment and ensure fairness when managing the performance of, or taking other management action relating to, a Protected Whistleblower;

- take practical action, as necessary, to protect a Protected Whistleblower from the risk of detriment;
- intervene if detriment has already occurred;
- protect Whistleblowers from civil, criminal or administrative liability (including disciplinary action) for making a disclosure of a Reportable Matters - noting that no contractual right (including an Employment Contract) can be exercised against a Protected Whistleblower to stop them disclosing a Reportable Matter or take recourse against them for so disclosing;
- as far as is within the School's power, ensure the information disclosed is not used against a Whistleblower in criminal proceedings or in proceedings for the imposition of a penalty, except if the proceedings are in respect of the falsity of the information.

Protected Whistleblowers may be entitled to seek compensation and other remedies through legal avenues if the School fails to protect them from detriment in circumstances where the Protected Whistleblower then suffers loss or damage.

4.3 Further Support for Whistleblowers

School staff have access to the Employee Assistance Program (EAP) and this is therefore available to a Whistleblower who is a School staff member. Where appropriate for Whistleblowers, the School will offer and cover additional expenses for:

- Preferred counselling support or other relevant services, and/or
- flexible work arrangements (eg work from home, if relevant), and/or
- any other arrangements sought by the Whistleblower which the School agrees are appropriate in the circumstances.

4.4 If Detriment has Occurred

If a Protected Whistleblower believes that they have been subject to detrimental treatment, they should inform an Eligible Disclosure Recipient immediately.

4.5 Penalties for Breaching

The penalties for breaching the confidentiality of an Protected Whistleblower's identity – or disclosing information which may lead to their identity - or causing or threatening detriment,

are significant in order to act as a deterrent, and include:

- for individuals – up to \$1mil
- for companies – up to the largest of either \$10.5 mil or 10% of annual turnover up to \$525mil

Exceptions to this are disclosures to the Australian Federal Police, ASIC or a legal practitioner for the purpose of obtaining legal advice about how to apply the whistleblower protections or with the written permission of the Eligible Person disclosing a Reportable Matter.

In specific circumstances, the School is required to report to the NSW Police, the Office of the Children’s Guardian (OCG), the NSW Department of Education (DoE) or the NSW Education Authority (NESA). In these cases, the identity of the Eligible Person may not remain confidential to these legal and governing bodies.

4. Investigation of the Disclosure

5.1 Investigation of Disclosures

Once disclosure has been received from an Eligible Person who has provided reasonable grounds for their belief that the Reportable Matter has occurred, an investigation of those allegations will begin as soon as practicable.

If the School determines that the information disclosed does not qualify as a Reportable Matter, the Whistleblower will be, if practicable, informed of that decision. In some cases, disclosures may not be able to be responded to, for example, if they are anonymous reports without any means of contacting the anonymous discloser.

If an investigation is conducted, it will:

- follow a fair process;
- be conducted in as timely a manner as the circumstances allow; and
- be independent of the person(s) about whom an allegation has been made.

Provided there are no restrictions or other prohibitive reasons, people against whom an allegation has been made will be informed of the allegation and will have the opportunity to respond.

The School will ensure fair treatment of the Protected Whistleblower, and any person who is

the subject of a Reportable Matter. All School employees affected by the disclosure will have access to the School's EAP.

Investigations will be conducted promptly and sensitively with due regard for the nature of the allegation and the rights of the people involved in the investigation.

The School recognises the importance of balancing the rights of the Protected Whistleblower, and the rights of people against whom a disclosure is made, to ensure procedural fairness.

Where appropriate, steps for investigation of the matter raised may be taken in accordance with the [Complaints and Grievances Policy](#).

5.2 Communication with the Protected Whistleblower

The School will ensure that – if a disclosure was not submitted anonymously - the Protected Whistleblower will be kept informed of when the investigation begins, its progress and the outcome of the investigation; subject to privacy of those against whom disclosures are made, any legal obligations and any other factors the School considers relevant such as signing a Confidentiality Agreement if deemed appropriate in the circumstances.

5. Related Policies

[Child Safe Code of Conduct](#)

[Code of Conduct - School Community Members](#)

[Code of Conduct - Students](#)

[Complaints & Grievances Policy](#)

[Complaints Handling Procedures - Staff Misconduct Reportable Conduct](#)