

Whistleblower Policy

Foundation for Life

Whistleblower Policy

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Whistleblower Policy

1. 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, in line with our School Values and Codes of Conduct. The School encourages the disclosure of actual or suspected conduct which may be unethical, illegal, fraudulent or any otherwise improper state of affairs, and to 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

This Policy promotes transparency around the School's approach for receiving, handling and investigating disclosures.

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).

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 still 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 Recommendation for 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 by law if the correct 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 Whistleblower are protected as required by law.

The School Principal is responsible for implementation of this policy School wide (including regular training), and may delegate responsibilities under this possible if required.

1.6 Distribution of this Policy

This policy is to be made available to all staff at the School at the time of their employment with the School and on the School's website.

2. 'Protected Whistleblowers'

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.

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.

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 or Company Secretary) of the School; or
- the senior manager of the School (ie the Principal).
- the School's external auditor.

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 Company Secretary

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 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 Frank Law, Parramatta or another law firm recommended by them. The Eligible Disclosure Recipient can quote and/or present this Board-approved 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.

3. 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 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 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.

4. 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 ensuring appropriate document security and record retention (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;
- 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).

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 which is prohibited 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,
- take practical action, as necessary, to protect a Protected Whistleblower from the risk of detriment;
- intervene and remediate 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 reasonably 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 regulators.

5. 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. Where possible, the Eligible Disclosure Recipient will work with the Board Chair (or Deputy Chair if the matter relates to the Board Chair) to identify whether a Board Sub-Committee should be convened and whether an internal or external investigation is required, dependent upon the relevant consents being received from the Whistleblower. The School can only take the investigation so far if the Whistleblower does not consent to release of sufficient information to undertake a meaningful investigation.

Where appropriate, the School aims to acknowledge receipt of the disclosure within 48 hours, communicate next steps, investigate and provide an outcome within six weeks of the disclosure.

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 (for example, refusal of the Whistleblower to provide consent), people against whom an allegation has been made will be informed of the allegation (to an appropriate degree) and will have the opportunity to respond as a matter of procedural fairness.

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

the subject of a Reportable Matter.

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.

An investigation report will be provide to the Board (or a Working Committee of the Board or other delegate including the CEO if the matter is operational in nature) and the Board is responsible for approving and actioning any remediation steps at its discretion.

Investigation outcomes are dependant upon the nature of the matter disclosed but may involve disciplinary action (including termination of employment), cautions, etc., as appropriate.

5.2 Communication with the Protected Whistleblower

The School will ensure that as far as reasonably practicable 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.

6.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 Con