

ST MARY'S COLLEGE

EST. 1869

WHISTLEBLOWER POLICY

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1. Purpose

St Mary's College Limited (**College**) is committed to creating and maintaining a culture of good governance and values a workplace with open communication regarding the College's organisational practices.

This policy sets out the process to report Disclosable Conduct without fear of reprisal and with the support and protection of the College. This policy also outlines the investigation process which the College will follow upon receipt of a whistle blowing report.

The aim of this policy is to enable Whistleblowers to feel confident about raising concerns of wrongdoing by offering a reporting and investigation process that is objective, confidential and provides protection from reprisal or disadvantage.

2. Scope

This policy applies to all Whistleblowers under Whistleblower Laws. Whistleblower Laws include the *Corporations Act 2001* (Cth) and *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019* (Cth).

If you wish to refer any conduct which is not Disclosable Conduct, or relevant conduct under the Whistleblower Laws, you can make a complaint about the conduct to the College through the College's procedures and policies.

3. Definitions

Corporations Act means *Corporations Act 2001* (Cth).

Disclosable Conduct means any conduct as outlined in the Schedule.

Eligible Recipient means the individuals outlined in section 4 of this policy.

Investigation Officer means an Investigation Officer appointed in accordance with section 5 of this policy.

Protection Officer means the St Mary's College Board of Directors Company Secretary who will perform the role outlined in section 4 of this policy.

Schedule means a schedule of this policy.

Staff means staff employed by the College.

Whistleblower means:

- an 'officer' of the College (including a director, secretary or the Principal);
- a staff member of the College;

- an individual who supplies services or goods to the College (paid or unpaid);
- an employee of a person that supplies services or goods to the College;
- an individual who is an associate of the College in accordance with the Corporations Act;
- a relative or dependent of a person referred to above.

4. Reporting Disclosable Conduct

4.1 Reporting Requirements

A report made under this policy may have serious consequences, including potential damage to personal reputation and career prospects of the person(s) who are the subject of the alleged wrongdoing. Therefore, in reporting any type of Disclosable Conduct, a Whistleblower must have reasonable grounds to suspect that the alleged Disclosable Conduct falls within the relevant definition of Disclosable Conduct.

Where it is shown that a person has knowingly made a false Disclosable Conduct report or makes a report without reasonable grounds as to truth or accuracy **(False Claim)**, that False Claim would not be protected by whistleblower laws and could be considered a serious breach of the College policy and the person may be subject to appropriate action, including appropriate disciplinary action.

4.2 Form of report

Reports of Disclosable Conduct made under this policy can be made either verbally or in writing. The Whistleblower should describe the grounds for the report and provide supporting documentation or evidence where possible.

A report can be made anonymously, and a Whistleblower can request to have their identity be kept confidential and claim details 'de-identified' as far as required by law.

4.3 Who to report to

The Whistleblower should contact an Eligible Recipient, being any of the following:

- the Protection Officer – see below;
- an 'officer' of the College (including a director or secretary of the College);
- the College Principal;
- a 'senior manager' of the College (including the Deputy Principal, Director of Business, Human Resource Advisor);
- an auditor of the College (or a member of an audit team conducting an audit of the College).

Alternatively, the Whistleblower may also choose to make an external report of Disclosable Conduct directly to a prescribed body as set out in Corporations Act.

4.4 Protection Officer

The College has authorised the Protection Officer to receive reports of Disclosable Conduct under this policy and coordinate necessary action. Any claim received by an Eligible Recipient must be promptly forwarded to the Protection Officer.

The Protection Officer will review the report and advise the Principal or another senior officer who is not the Protection Officer, who together will determine the appropriate course of action, which could include:

- referring the matter to the Investigation Officer for investigation; or
- determining that the report is baseless or unfounded and that not formal investigation is required (in which case, the Whistleblower will be notified).

The Protection Officer will ensure all valid claims are taken seriously and investigated fairly. Eligible Recipients will only provide the Whistleblower's identity to the Protection Officer where the Whistleblower has consented.

5. Investigation of Disclosable Conduct

All reports of Disclosable Conduct made under this policy will be investigated as soon as possible after the matter has been reported. A Whistleblower making a disclosure must be aware that disclosures made during term breaks may not be investigated until the school term resumes. Steps will be taken to ensure an investigation commences as soon as practicable.

An Investigation Officer will be appointed by the Principal and will be a senior leader who is independent of the alleged Disclosable Conduct. The Investigation Officer may seek independent financial, legal, and operational advice to enable them to properly investigate the alleged Disclosable Conduct. Where applicable, the College may appoint an external investigator.

5.1 Preliminary review of report

The Investigation Officer will carry out a preliminary review of the alleged Disclosable Conduct and will decide whether the allegations raised should be investigated. Whilst not all reports of Disclosable Conduct will necessarily lead to an investigation, they will be assessed, and a decision made as to whether they should be investigated. For example, the Investigation Officer may decide that the allegations were investigated previously and that a new investigation is not required.

Where preliminary investigations determine the report is baseless or unfounded and that no formal investigation is warranted, the Whistleblower will be notified.

5.2 Investigation procedure

If further investigation is required, the College will take all reasonable steps to ensure the investigation is conducted fairly, independently, without bias, in a timely manner and in accordance with the principles of natural justice. All reasonable efforts will be made to preserve confidentiality.

Provided there are no restrictions or other reasonable bases for doing so, the person who is alleged to have committed the Disclosable Conduct will be informed of the allegation and given the opportunity to respond to it. Their response will be included in any report arising from the investigation. They will also be informed about the substance of any adverse conclusion at the end of the investigation process that affects them.

Subject to the College's obligations under the Whistleblower Laws and any other relevant legislation, the College will:

- inform the Whistleblower on the progress of the investigation; and
- provide the Whistleblower with a summary of the outcome but not a copy of the report (as appropriate). The summary will be provided on a confidential basis and the Whistleblower is not permitted to disclose any details of the matter unless prior written consent is provided by the Protection Officer.

When an investigation is completed the Investigation Officer will report the findings and a summary of the evidence to the Principal who in turn will determine an appropriate response.
If the investigation concludes that Disclosable Conduct has occurred this will be dealt with accordingly. The Principal (or their delegate) will take appropriate action in relation to the Investigation Officer's report. This may include:

- requiring further investigations;
- recommending disciplinary action;
- referring the matter to the College's Board of Directors; and/or
- notifying regulatory bodies.

Any findings that relate to criminal activity will be reported to the police and/or regulators.
If the investigation concludes that Disclosable Conduct has not occurred, the Whistleblower will be notified and protected in accordance with this policy.

6. Whistleblower Protection

6.1 Anonymity

A report made by a Whistleblower can be made anonymously.

Subject to the identity of the Whistleblower being disclosed for the purpose of investigation under clause 5, the College will not disclose details of any reported matter which may reveal the identity of the Whistleblower, without the Whistleblower's consent, unless it is required by law.

6.2 Confidentiality

All reports made under this policy will be confidential.

If a Whistleblower reports Disclosable Conduct under this policy, the Whistleblower's identity will only be disclosed to the Protection Officer, the Investigation Officer and any other persons required to be informed to enable a proper investigation to be conducted. No-one else will be informed of the Whistleblower's identity unless they consent to the disclosure, or their identity is required to be disclosed by law.

The College will not disclose details of any reported matter which may reveal the identity of the Whistleblower, without the Whistleblower's consent.

All records created as part of the investigation process will be retained under strict security. The release of any such information in breach of this policy will be dealt with in accordance with the College's relevant guidelines.

6.3 Detrimental treatment

Detrimental treatment of a Whistleblower includes dismissal, demotion, disciplinary action, threats, harassment, any unfavourable or biased treatment, taking action against a Whistleblower or their colleagues, associates or family, connected with reporting Disclosable Conduct. Please refer to the Schedule for further examples of detrimental treatment.

Any such retaliatory action or victimisation in reprisal for a report made under this policy will be treated as serious misconduct and will result in disciplinary action, which may include termination of employment or services or other appropriate action.

If a Whistleblower believes they have been subjected to detrimental treatment as a result of being a Whistleblower, they should immediately report the matter to the Protection Officer.

Whistleblowers are protected from civil, criminal or administrative liability (including disciplinary action) for making reports of Disclosable Conduct which are protected under the Whistleblower Laws. No contractual right (including under an employment contract) can be exercised against a Whistleblower to prevent or hinder disclosure of Disclosable Conduct.

6.4 Compensation

Whistleblowers may be entitled to seek compensation (including from the College) for loss, damage or injury suffered as a result of the report of Disclosable Conduct.

7. Public Interest Disclosures

The College strongly recommends that a Whistleblower obtain independent legal advice before making a Public Interest Disclosure to ensure that:

- the disclosure will attraction protection under the relevant legislation and this policy; and
- in making the disclosure, the Whistleblower will not breach any other laws, regulations, codes of conduct or be otherwise subject to disciplinary action where such disclosure does not attract protection.

8. Related Documents

This policy is to be read in conjunction with, and is additional to, any other relevant College Policy, Procedure or Guideline. All Staff employed by the College are required to comply with the provisions of any such document. However, this policy does not form part of any agreement between any person and the College, nor does it constitute terms and conditions of any person's employment or engagement with the College.

- Child and Young Persons Safe Environments Policy
- Managing allegations of sexual misconduct in SA education and care settings
- Protective Practices for staff in their interactions with children and young people
- Records Retention Policy
- SACCS Reporting Harm of Children and Young People Procedure
- SACCS Responding to Discrimination, Bullying and Harassment
- Staff Code of Conduct
- Staff Grievances Policy
- Student Grievances Policy
- Whistleblower Policy

9. Revision Record								
Document title	Whistleblower Policy (2024)							
Document type	Policy							
Document date	March 2024							
Process owner	Strategy and Risk Committee							
Contact	Principal ☎8216 5700 ✉principal@stmarys.sa.edu.au							
Approval authority	Board of Directors							
Review date	[Review every 5 years] 2029							
Policy Distribution	Website	☒	MS Teams	☒	SEQTA	☒	BoardPro	☒
Revision History	**Edition Number**		**Date**		**Description of change**			
	1.0		Nov 2023		Policy created			
	2.0		Mar 2024		Reviewed by Russell Kennedy Lawyers			

SCHEDULE

Disclosable Conduct	• any matter/information that the Whistleblower has reasonable grounds to suspect concerns misconduct, or an improper state of affairs or circumstances, in relation to the College; • any matter/information that the Whistleblower has reasonable grounds to suspect indicates that the College, or any of its officers or employees, has engaged in conduct that: - constitutes an offence against, or a contravention of, a provisions of the *Corporations Act 2001* (Cth), the *Australian Securities and Investments Commission Act* 2001 (Cth), the *Banking Act 1959* (Cth), the *Privacy and Data Protection Act 2014* (Cth), the *Insurance Act 1973* (Cth), the *Life Insurance Act* 1995 (Cth), the *National Consumer Credit Protection Act 2009* (Cth), or the *Superannuation Industry (Supervision) Act 1993* (Cth), or regulations made under those laws; - constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; - represents a danger to the public or the financial system; or - is otherwise prescribed by regulation; or • any conduct that may not be in contravention of particular laws but may still be of a serious enough nature to warrant disclosure – for example conduct that, whilst not unlawful, may indicate a 'systemic issue'.
Detrimental Treatment	The Whistleblower must not be disadvantaged or victimised, including by any of the following occurring: • dismissal as employee; • injury of an employee in their employment; • alteration of an employee's position or duties to their disadvantage; • discrimination between an employee and other employees; • harassment or intimidation of a person; • harm or injury to a person, including psychological harm; • damage to a person's property; • damage to a person's reputation; • damage to a person's business or financial position; or • any other damage to a person.