

Whistleblower Policy

Version 2.0, Date 25 May 2022

Approved by Board

1. Purpose of this policy

1.1. The purpose of this policy is to:

- 1.1.1. deter wrongdoing and encourage disclosures of wrongdoing;
- 1.1.2. ensure disclosures are dealt with appropriately and on a timely basis; and
- 1.1.3. provide a framework for receiving, handling and investigating disclosures.

2. Who does this policy apply to?

2.1. This policy applies to:

- 2.1.1. all staff;
- 2.1.2. any person wishing to make a disclosure; and
- 2.1.3. any person authorised to receive a disclosure.

2.2. This policy does not apply to:

- 2.2.1. complaints or allegations of staff misconduct;¹
- 2.2.2. complaints or allegations made by students or parents;²
- 2.2.3. personal work-related grievances (see **Note** below);³
- 2.2.4. disclosures about reportable conduct;⁴ and
- 2.2.5. unlawful discrimination, harassment or bullying.⁵

¹ Those concerns will be addressed in accordance with Complaints Procedure.

² Those concerns will be addressed in accordance with Complaints Procedure.

³ Those concerns will be addressed in accordance with Complaints Procedure and Bullying, Harassment, Sexual Harassment and Discrimination Policy.

⁴ Those concerns will be addressed in accordance with Child Abuse - Mandatory Reporting Policy.

⁵ Those concerns will be addressed in accordance with the Bullying, Harassment, Sexual Harassment and Discrimination Policy

3. Legislative requirements

3.1. This policy complies with the requirements of relevant legislation, including the:

- 3.1.1. *Associations Incorporation Reform Act 2021* (Vic); and
- 3.1.2. *Corporations Act 2001* (Cth).

4. Definitions

- 4.1. **APRA:** Australian Prudential Regulation Authority.
- 4.2. **ASIC:** Australian Securities and Investments Commission.
- 4.3. **ATO:** Australian Taxation Office.
- 4.4. **Discloser:** A person who discloses wrongdoing or an Eligible Whistleblower.
- 4.5. **Disclosable Matter:** Information about which an Eligible Whistleblower has reasonable grounds to suspect concerns:
 - 4.5.1. misconduct;
 - 4.5.2. an improper state of affairs or circumstances;
 - 4.5.3. illegal activity; or
 - 4.5.4. conduct that represents a danger to the public or financial system.
- 4.6. **Eligible Recipient:** A person who is authorised to receive a disclosure and includes any person who occupies any of the following roles in relation to the school or a related company:
 - 4.6.1. a Board member;
 - 4.6.2. a senior manager (Principal, Business Manager, or Head of Campus); or
 - 4.6.3. For matters associated with alleged financial misconduct, an auditor of the school or of a related company.
- 4.7. **Eligible Whistleblower:** A person who is or has been any of the following in relation to the school:
 - 4.7.1. a Board member;
 - 4.7.2. an employee;
 - 4.7.3. a person who supplies goods or services (paid or unpaid);
 - 4.7.4. an employee of a person who supplies goods or services (paid or unpaid);
 - 4.7.5. a person who is an associate of the school; or
 - 4.7.6. a spouse, relative or dependant of any of the above.
- 4.8. **Emergency Disclosure:** A disclosure made by an Eligible Whistleblower to a journalist or a member of Parliament where the following circumstances are met:

- 4.8.1. the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority; and
- 4.8.2. the Eligible Whistleblower has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment; and
- 4.8.3. before making the disclosure, the Eligible Whistleblower gives written notice to the original recipient that includes sufficient information to identify the previous disclosure and states that they intend to make an emergency disclosure; and
- 4.8.4. the disclosure of information is no greater than necessary to inform the recipient of the substantial and imminent danger.

4.9. **Personal Information** has the same meaning in the *Privacy Act 1988* (Cth).

4.10. **Protection:** means:

- 4.10.1. the identity of the Eligible Whistleblower (and information that could identify them) is kept confidential, unless the Eligible Whistleblower consents to their identity being disclosed;
- 4.10.2. the Eligible Whistleblower is protected from criminal, civil and administrative liability (including disciplinary action) in relation to the disclosure;
- 4.10.3. the Eligible Whistleblower is protected from suffering any detriment by reason for the disclosure;
- 4.10.4. the Eligible Whistleblower can seek compensation and other remedies; and
- 4.10.5. the Eligible Whistleblower can receive support (see **Appendix C**).

4.11. **Public Interest Disclosure:** A disclosure made by an Eligible Whistleblower to a journalist or member of Parliament where the following circumstances are met:

- 4.11.1. the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority; and
- 4.11.2. at least 90 days has passed since the first disclosure was made; and
- 4.11.3. the Eligible Whistleblower does not have reasonable grounds to believe action is being, or has been, taken to address the information in the disclosure; and
- 4.11.4. the Eligible Whistleblower has reasonable grounds to believe that making a further disclosure of the information would be in the public interest; and
- 4.11.5. before making the disclosure, the Eligible Whistleblower gives written notice to the original recipient that includes sufficient information to identify the previous disclosure and states that they intend to make a public interest disclosure; and
- 4.11.6. the extent of information disclosed is no greater than necessary to inform the recipient of the Disclosable Matter.

4.12. **VRQA:** Victorian Registration and Qualifications Authority.

5. How to make a disclosure?

5.1. The process for making a disclosure is outlined in **Appendix A**.

6. How to investigate a disclosure?

6.1. The process for handling and investigating a disclosure is outlined in **Appendix B**.

7. Protection for Eligible Whistleblowers

7.1. To qualify for Protection under this policy, disclosures must:

- 7.1.1. be made by an Eligible Whistleblower;
- 7.1.2. be made to an Eligible Recipient; and
- 7.1.3. concern a Disclosable Matter.

7.2. Eligible Whistleblowers who make a Public Interest Disclosure or an Emergency Disclosure may also qualify for Protection⁶.

7.3. Eligible Whistleblowers who make a disclosure to ASIC, APRA or a prescribed Commonwealth authority may also qualify for Protection.

8. Roles and responsibilities

8.1. The governing Board is responsible for:

- 8.1.1. determining this policy and reviewing it on a biennial basis;
- 8.1.2. responding to a disclosure when authorised to do so; and
- 8.1.3. monitoring the number, nature and outcome of disclosures, whilst maintaining confidentiality.

8.2. The Principal is responsible for:

- 8.2.1. overseeing a school culture where concerns and complaints are addressed appropriately and handled respectfully and fairly;
- 8.2.2. ensuring that this policy is communicated to all staff and the school community;
- 8.2.3. establishing processes to manage and investigate disclosures made under this policy;
- 8.2.4. retaining a confidential register of disclosures made under this policy for purpose of reporting to the Board; and
- 8.2.5. providing training for staff and retaining a record of that training.

8.3. Eligible Recipients are responsible for:

- 8.3.1. understanding the school's whistleblower policies and procedures;

⁶ However, this is only in certain limited circumstances subject to the requirements under Section 4.8 and 4.11.

8.3.2. undertaking training; and

8.3.3. receiving and responding to a disclosure made under this policy.

8.4. Staff are responsible for:

8.4.1. understanding the school's whistleblower policies and procedures; and

8.4.2. undertaking training.

9. Communication

9.1. This policy will be published on the Maranatha Christian School website.

9.2. This policy will be made available to Board members and all staff.

10. Links to other policies

10.1. This policy should be read in conjunction with the school's other policies and procedures, including:

10.1.1. Child Safe Standards Policy

10.1.2. Grievance Policy

10.1.3. Complaints Policy

10.1.4. Equal Opportunities Policy

10.1.5. Reportable Conduct Policy

11. Review

11.1. This policy will be reviewed by the governing board as new legislation comes into effect and, in any event, on a biennial basis.

APPENDIX A

Process for making a disclosure

1. Make an informal complaint

- An Eligible Whistleblower should first seek to make a complaint informally.
- This can be done verbally or in writing to the:
 - Principal via email principal@maranatha.vic.edu.au or phone 9709 7211; or
 - Chair of the Board via email boardchair@maranatha.vic.edu.au or phone [insert number].

2. Seek advice

- An Eligible Whistleblower may wish to seek advice from:
 - someone trusted (e.g. a senior manager or board member within the school); or
 - an independent legal practitioner.

3. Make a written disclosure

- An Eligible Whistleblower can make a formal disclosure to any Eligible Recipient.
- The school encourages disclosures to be made in writing to the Principal via email principal@maranatha.vic.edu.au.
- If it is not appropriate for the disclosure to be made to the Principal, the Eligible Whistleblower can make the disclosure in writing to the Chair of the Board via email boardchair@maranatha.vic.edu.au.

APPENDIX B

Process for handling and investigating a disclosure

1. Acknowledge receipt of the disclosure

- The school will acknowledge receipt of the disclosure within a reasonable period.

2. Assess the disclosure

- The school will assess the disclosure to determine whether:
 - it qualifies for Protection under this Policy; or
 - it concerns a matter which should be managed in accordance with the school's related policies.
- The school will then assess whether an investigation is required, and if so, how that investigation should be carried out.
- If an investigation is required, the school will determine:
 - the nature and scope of the investigation;
 - who should lead the investigation (including whether an external investigation is appropriate);
 - the nature of any technical, financial or legal advice that may be required to support the investigation; and
 - the anticipated timeframe for the investigation.

3. Undertake an investigation [if appropriate]

- The school will endeavour to complete the investigation as soon as practicable.
- The school will appoint an investigator, which may be internal or external to the school, depending on the nature of the allegation.
- The investigator may undertake some or all of the following tasks:
 - seek further information and evidence from the Eligible Whistleblower either in writing or in person;
 - seek information and evidence from other sources as appropriate, (e.g. conducting interviews or reviewing documentation);
 - seek advice from external professionals;
 - refer the matter to regulators or other authorities if necessary;
 - draft a report to summarise their findings; or
 - make recommendations for action.

4. Report on the outcome of the investigation

- The investigator will prepare a report on the outcome of the investigation which will be provided to the Principal and the Board, unless they are the subject of the allegations. The method for documenting and reporting the findings will depend on the nature of the disclosure. There may be circumstances where it may not be appropriate to provide details of the outcome to the Eligible Whistleblower.
- The investigator will make recommendations to the Board as to whether and how the findings should be communicated back to the Eligible Whistleblower, to the school community, and/or to the authorities (if appropriate).
- The investigator will also make recommendations to the Board as to the archiving of the report, bearing in mind the need for confidentiality.
- If the disclosure is made to regulators or other authorities, their investigation process will normally take precedence to that of the school.

5. Keep the Eligible Whistleblower informed about the investigation

- Where practicable, the school will keep the Eligible Whistleblower informed of the steps taken or to be taken (or if no action is to be taken, the reason for this).
- Where practicable, whistleblowers will receive updates about:
 - when the investigation process has begun;
 - while the investigation is in progress; and
 - after the investigation has been finalised.

6. Ensure the fair treatment of employees mentioned in the disclosure

- The school will take reasonable steps to ensure the fair treatment of employees who are mentioned in a disclosure that qualifies for Protection. This includes:
 - disclosures will be handled confidentially;
 - each disclosure will be assessed and may be the subject of an investigation;
 - the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported;
 - when an investigation needs to be undertaken, the process will be objective, fair and independent;
 - employees about whom disclosures are made will generally be given an opportunity to respond to the relevant allegations made in the qualifying disclosure; and
 - employees about whom disclosures are made may contact the school's support services.
- The school's employee assistance program (EAP) services will be available to employees affected by the disclosure, should they require that support.

7. Reviewing the outcome of an investigation

- If an Eligible Whistleblower is not satisfied with the outcome of an investigation, then the Eligible Whistleblower may request that the school review the investigation into the disclosure.
- The request must be made in writing to the Principal or Chair of the Board.
- The school is not obliged to reopen an investigation and can conclude a review if it finds that the investigation was conducted properly in accordance with this policy, or new information is either not available or would not change the findings of the investigation.

APPENDIX C

Support for Eligible Whistleblowers and others involved in the process

The school will support the Eligible Whistleblower and other involved in the process by:

1. Employees may seek support from the school's staff chaplains.
2. An Eligible Whistleblower may have a support person⁷ present in any meetings with the investigator or other authorities.

⁷ a support person could be a work colleague, friend, family member etc. The role of support person is to provide emotional support and reassurance to the Eligible Whistleblower

APPENDIX D

Maintaining confidentiality of Eligible Whistleblowers

The school will protect the identity of an Eligible Whistleblower by:

- redacting Personal Information in documents;
- using a pseudonym when referring to the Eligible Whistleblower;
- referring to the Eligible Whistleblower in a gender-neutral context;
- storing all paper and electronic documents and other materials relating to the disclosure securely;
- ensuring access to all information relating to the disclosure is limited to those directly involved in managing and investigating the disclosure;
- restricting the number of people who are directly involved in handling and investigating the disclosure;
- ensuring that communications and documents relating to the investigation of the disclosure are not sent to an email address or a printer which is accessible by other staff; and/or
- reminding each person who is involved in the managing and investigation of the disclosure about the confidentiality requirements, including that unauthorised disclosure of an Eligible Whistleblower's identity may be a criminal offence.

APPENDIX E

Protecting Eligible Whistleblowers from detriment

The school will protect Eligible Whistleblowers from detriment by:

- assessing the risk of detriment against the Eligible Whistleblower. For example:
 - the risk of their identity becoming known;
 - who they fear might cause detriment to them;
 - whether there are any existing conflicts or problems in the workplace; and
 - whether there have already been threats to cause detriment.
- considering the support services (including counselling services) which are available to the Eligible Whistleblower;
- developing and implementing strategies to prevent or contain the risk (including providing for anonymous disclosures);
- monitoring and reassessing the risk of detriment to the disclosure, which may increase or change as the investigation progresses;
- developing strategies to help the Eligible Whistleblower minimise and manage stress, time or performance impacts and other challenges resulting from the disclosure or its investigation;
- taking steps to ensure the Eligible Whistleblower is protected from risk of detriment, for example:
 - allowing the Eligible Whistleblower to perform their duties from another location;
 - reassigning the Eligible Whistleblower to another role at the same level;
 - making modifications to the Eligible Whistleblower's workplace or the way they perform their duties;
 - reassigning or relocating other staff involved in the Disclosable Matter,
- ensuring that senior members of the school are aware of their responsibilities to maintain confidentiality, and to ensure fairness when managing the performance of, or taking other management action relating to, the Eligible Whistleblower;
- developing procedures for how the Eligible Whistleblower can lodge a complaint if they have suffered a detriment, and the actions the school may take in response to such complaints; and/or
- implementing interventions for protecting an Eligible Whistleblower if detriment has already occurred. For example, by:
 - investigating the detrimental conduct;
 - taking disciplinary action;

- allowing the Eligible Whistleblower to take extended leave;
- offering compensation or other remedies.