



## Investigations Policy and Procedure

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<b>Risk category</b>	Trust & Reputation	
<b>NESA</b>	Registered and Accredited Individual Non-Government Schools (NSW) Manual - 3.6	
<b>Church</b>	St Peter's Anglican College Ordinance 2000 South Coast Anglican Schools Ordinance 2009	
<b>Relevant legislation/guidelines</b>	NSW Anti-Discrimination Act 1977 Fair Work Act 2009 (Cth) Freedom of Information Act 1989 (NSW)	
<b>Related documents</b>	Whistleblower Policy and Procedure Bullying and Harassment (including sexual harassment) in the Workplace Policy and Procedure Workplace Complaints Policy	
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## Commitment

St Peter's Anglican College (SPAC) (the College) is committed to conducting its affairs ethically and in compliance with laws, regulations, and College policies, and to safeguarding members of the College community and its resources.

## Scope

This policy is College based and applies to all personnel who work in or serve SPAC. Personnel includes; Board Members, Staff, Contractors, Parents, Guardians and Volunteers.

## Definition

**Confidentiality** is a legal term that refers to the duty of an individual to refrain from sharing confidential information with others without the express consent of the other party.

**Duty** a legal obligation that entails mandatory conduct or performance.

**Investigation** means a College-authorized internal examination, inspection, inquiry, analysis, or review to determine facts. An Investigation is not a hearing or legal proceeding, and may be formal or informal. Investigations may be undertaken by school officers, including, but not limited to the Principal, their delegate/s or an externally appointed investigator.

## Policy

Personnel shall adhere to all applicable laws, policies, and procedures, including those enacted to ensure proper action against all forms of misconduct. This document addresses the process for reporting and investigating alleged misconduct and/or inappropriate behaviour of members of the SPAC community. The reporting of misconduct allows the College to respond and investigate such misconduct in an effective, efficient, and proficient manner.

When a report of potential ethical misconduct or other wrongdoing is made, the College has a responsibility to investigate thoroughly, objectively, consistently, and as promptly as possible so that it can implement corrective action, if necessary. To meet this responsibility, employees of the College must cooperate with the investigation (defined below).

### Clarification

If there is any conflict between this document and the law, the law will prevail.

### Duty to Report

Individuals normally should report suspected ethical misconduct to their line manager or principal. If an individual is uncomfortable speaking with their line manager a report may be made to the Principal. Refer to *Workplace Complaints Policy and Procedure*.

Individuals who are not comfortable using the foregoing reporting channels may make a report anonymously through the feedback link on the College's web page.

### Duty to Cooperate

All employees must cooperate fully with investigations undertaken by persons charged with conducting the inquiry. Cooperation with investigations includes, but is not limited to:

- promptly acknowledging and responding to requests for information;
- making oneself available for meetings with investigating officials;
- providing full, accurate, and truthful information;
- keeping confidential information learned or transmitted during the investigation, unless directed by legal authorities, and
- preserving relevant information and documents.

Non-cooperation or obstruction of an investigation is subject to disciplinary action which may include termination of employment.

### Confidentiality and Non-Retaliation

Confidentiality for individuals who are interviewed or otherwise cooperate in an investigation will be maintained to the extent possible by law. While absolute confidentiality cannot always be guaranteed, all matters will be kept private (i.e., shared only with those with a need to know).

To protect the confidentiality of individuals who participate in investigations, and to protect the integrity of the investigative process, individuals normally will not be informed of the outcome of an investigation.

Retaliation based on an individual's cooperation with an investigation is prohibited. Knowingly initiating or causing a false or bad faith report also is strictly prohibited. Violations of these provisions are subject to disciplinary action up to and including termination. All suspected reports of retaliation or bad faith reports should be reported immediately to the Principal or Chairperson of the College's Board.

## Procedure

### I. Complaint Process

Generally speaking, all complaints involving the misconduct of an employee, volunteer, visitor, or contract worker, shall be made in accordance with *Workplace Complaints Policy and Procedure*. A complaint should be filed as soon as possible to the alleged misconduct or the date on which the complainant knew or should have known of the alleged misconduct. A complaint may not be reopened after final resolution, despite whether the investigation was formal or informal. When a complaint has been resolved:

- all allegations that are the subject of the complaint are considered resolved.
- a resolution is considered final once the time for an appeal, if applicable, has expired or the appeals process is otherwise complete.
- if misconduct continues after final resolution, a new complaint may be filed.

## II. Investigation Process

The investigation process consists of five (5) phases:

1. assessment;
2. fact-finding/informal investigation;
3. formal investigation;
4. report writing; and
5. implementation.

### Assessment – Phase 1

The assessment phase consists of a complaint being received via feedback or internal school incident form whereby the Principal reviews the complaint, determines if an investigation is necessary. Should the complaint refer to the Principal ADS Risk and Compliance will direct the complaint to the Board chairperson who may request an investigator to proceed according to the process outlined in this policy.

In some cases, the complainant's concerns may be addressed by referring them to applicable laws, College policies and as such, will not warrant further investigation.

Should any staff be under investigation by the College, The Board and/or an outside agency the College Chaplain will be available as a support person. The person under investigation will also be able to access the EPA program. The pastoral care of our staff will continue to be the highest priority during any investigation process.

### Fact-finding/Informal Investigation – Phase 2

The fact-finding phase consists of gathering documents and other pertinent information related to the investigation and interviewing the complainant and/or other key parties to the complaint to determine whether such information warrants a formal investigation. If the fact-finding process reveals there is sufficient information to proceed with a formal investigation, the investigator shall proceed according to the formal investigation phase process outlined in this policy. If the fact-finding process reveals there is insufficient information to proceed with a formal investigation, the case manager or investigator shall prepare an informal investigation report based on the results of the fact-finding/informal investigation and proceed according to the reporting phase process outlined in this policy.

### Formal investigation – Phase 3

The formal investigation phase consists of several steps, which include:

- sending out acknowledgement of complaint within two (2) business days.
- sending a confirmation of complaint to the complainant summarising the allegations and the investigation process.
- complainant confirming content of confirmation of complaint.

- sending a *Notice of Complaint* to the respondent informing him/her of the allegations, with copy sent to chain of command.
- respondent is entitled to, but not required to, submit a Response to allegations within five (5) business days of receipt of the *Notice of Complaint*.
- the investigator meets with the parties, relevant witnesses, and collects all supporting evidence.

#### Report Writing – Phase 4

When an investigation is concluded, the reporting phase begins which consists of the investigator preparing a written report and providing the report to appropriate managers.

- a) The written report may contain; findings of fact, conclusions, concerns, recommendations, or any other information the investigator believes bears significance on the outcome of the investigation.
- b) At minimum, the investigation report should contain:
  - a summary of the complainant’s relevant allegations;
  - a summary of the respondent’s relevant statements in response to the allegations;
  - a description of the relevant information provided by witnesses or obtained from documents, including comments submitted in response to the investigation;
  - the investigator’s statement of credibility; and
  - the investigator’s analysis and findings.
- c) The written report will be provided to appropriate managers as is necessary to ensure proper resolution and follow-up regarding the matter.
  - appropriate managers are, but are not limited to, the Principal or their delegate/s
  - a copy of all completed reports shall be added to the original feedback report or incident form
- d) The investigator will provide a *Notice of findings* to all parties involved within established guidelines.

#### Implementation – Phase 5

Corrective action includes, but is not limited to, recommended training, retraining, counselling, reprimand, and/or termination of employment.

- a) If corrective action is recommended, the Principal and/or the Board chair shall be notified, in writing, of such recommended corrective action.
- b) The investigator shall provide recommendations for future implementation
- c) Any recommended corrective action pertaining to employees will be coordinated by the Principal/Board chair or a nominated delegate
- d) The investigator shall follow up with the Principal/Board chair or a nominated delegate within thirty days to ensure implementation of appropriate recommendations.

#### Investigation Timeframe

An investigation is considered complete once a final investigation report has been issued and the time for an appeal has expired, if applicable. Barring extenuating circumstances, all

investigations should be completed within sixty (60) days of receipt of a complaint. If an investigation proceeds beyond sixty (60) days, such extenuating circumstances shall be noted as follow up in the original feedback form or within the incident form.

### Conflict of Interests

In the event conflict of interests arise surrounding an investigation, the parties may request an alternate investigator, or the Principal/Board Chairperson may delegate to an alternate investigator.

If a party requests an alternate investigator, one will only be appointed for good cause.

### Reporting Protection

Protected disclosure and victimisation are defined within the *Whistleblower Policy* and should be read in conjunction with this policy.

### Compliance

Non-compliance with this policy may result in disciplinary action up to and including dismissal.