



Whistleblower Policy and Procedure

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Risk category	Trust & Reputation	
NESA	Registered and Accredited Individual Non-government Schools (NSW) Manual - 3.6	
Church	St Peter's Anglican College Ordinance 2000 South Coast Anglican Schools Ordinance 2009	
Relevant legislation/guidelines	Public Interest Disclosures Act 1994 (NSW) Public Interest Disclosure Act 2013	
Related documents	Staff Code of Conduct Investigations Policy Whistleblower Report Form Unreasonable Complainant Conduct Policy Workplace Investigations Policy Child Protection Policy	
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Commitment

This document outlines St Peter's Anglican College's (SPAC) (the College) commitment to practices which are ethical and congruent with the Mission and Values of the College.

This policy outlines the process for personnel to safely raise concerns about practices that are not aligned to this commitment.

Scope

This policy is College wide and applies to all personnel.

Definitions

Anonymous disclosures - A disclosure can be made anonymously and still be protected under the Corporations Act. A discloser can choose to remain anonymous while making a disclosure. However, this may make it difficult to investigate the reported matter. The College therefore encourages disclosers to provide their names. If a discloser wishes to disclose anonymously, the discloser should provide sufficient information to allow the matter to be properly investigated. The College encourages the discloser to provide an anonymous email address through which additional questions can be asked and information provided. It will also allow the College to report the progress of the investigation to the discloser, as appropriate.

Improper conduct – Defined as any action/behaviour or the concealment of actions or behaviour incorporating:

- abuse of students or personnel;
- issues of waste or maladministration;
- illegal activity;
- any behaviour that that is in conflict with the College's values or *Staff Code of conduct*.

Protected Disclosure – is a disclosure relating to *improper conduct* made by personnel that entitles the person who made the disclosure to support and protection from reprisals. In order for a disclosure to qualify as a *protected disclosure* it must be made in good faith and relate to *improper conduct* (as defined above).

Victimisation – includes any unfavourable treatment of personnel who have been involved in a Whistleblower report. Unfavourable treatment may include adverse changes in the working environment, denial of training or promotion, making negative, unfounded or belittling comments, inappropriate disciplinary action or exclusion by peers.

Whistleblower -The term “whistleblower” is usually used to refer to someone who discloses *improper conduct* to an authority that has the power or perceived willingness to take corrective action.

Related Policies

- Complaints or allegations of staff misconduct that do not meet the criteria of a whistleblowing disclosure will be addressed in accordance with the College's *Complaints Policy and Procedure*.
- Disclosures about reportable conduct will be addressed in accordance with the College's *Child Protection Policy*.
- Disclosures regarding a grievance between staff members about work matters, including work relationships and decision made by other staff members which impact on their work, may be addressed in accordance with the College's *Complaints Policy and Procedure*.
- Unlawful discrimination, harassment or bullying complaints may be addressed in accordance with the College's *Bullying and Harassment (including sexual harassment) in the Workplace Policy and Procedure*.

Policy

The College is committed to practices which support the mission and values of the College and the Anglican Diocese of Canberra and Goulburn. It is also committed to practices that provide good stewardship. All personnel are expected to act in accordance with this commitment and with regard to the *Staff Code of Conduct* and other College policies. Where personnel experience practices that are not in line with this position and they have no other recourse (as identified in the *Complaints policy*), this policy provides a protected reporting path.

Personnel that witness, are subject to, or become aware of actions or behaviour that can be defined as *improper conduct* will be provided with an avenue of protected disclosure. Personnel who are genuine in their report of such incidents or their suspicion of such incidents will be provided with protection from any victimisation. The College encourages personnel to make such reports so that proper investigations may be undertaken.

Personnel who genuinely believe that it is appropriate to report will be protected from victimisation as a result of making a report. This policy provides an avenue of redress for personnel who have made a *Whistleblower Report* and believe they have experienced victimisation as a result of their disclosure.

Responsibilities

The College's operational policy documents must be ratified by the Principal. The Principal is responsible for reviewing this policy every two years. All personnel are responsible for ensuring that practice that is not in accordance with the policies, values and mission of the College is reported.

The Principal is responsible for receiving Whistleblower reports and determining the most appropriate course of action. Should the allegations involve the Principal the Chairperson of the Board or the relevant Director from Anglican Diocesan Services (ADS) should be contacted.

Procedure

Making a Report

In the first instance all personnel are encouraged to use the available processes for making a complaint or identifying workplace issues as identified in the *Complaints Policy*.

Where personnel are unable to access this process due to fear of recrimination or victimisation, they are encouraged to use the process defined in this policy.

Whistleblower reports are made directly to the Principal and may be emailed or posted to the Principal, marked confidential. If the allegation involves the Principal the report can be made directly to the Chair of the Board and may be emailed or posted, marked confidential.

External Disclosures

Disclosures may also qualify for protection if they are made to ASIC, APRA or a prescribed Commonwealth authority, or if an eligible Whistleblower makes a disclosure to a legal practitioner to obtain advice about the operation of the Whistleblower provisions. Eligible Whistleblowers who make a 'public interest disclosure' or an 'emergency disclosure' also qualify for protection.

Public Interest Disclosures

An eligible Whistleblower can disclose to a member of Parliament or a journalist only if the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority, and:

- at least 90 days has passed since the eligible Whistleblower made the first disclosure to ASIC, APRA or a prescribed Commonwealth authority; and
- 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
- the eligible Whistleblower has reasonable grounds to believe that making a further disclosure of the information would be in the public interest; and
- 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
- the extent of information disclosed is no greater than necessary to inform the recipient of the disclosable matter.

An eligible Whistleblower may wish to consider obtaining independent legal advice before making a public interest disclosure.

Emergency Disclosures

An eligible Whistleblower can disclose to a member of Parliament or a journalist only if the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority, and:

- 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
- 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

- the disclosure of information is no greater than necessary to inform the recipient of the substantial and imminent danger.

An eligible Whistleblower may wish to consider obtaining independent legal advice before making an emergency disclosure.

Investigation

The Principal will determine the most appropriate course of action upon receiving a Whistleblower report. All investigations will be conducted in accordance with the *Investigations Policy*.

Confidentiality

The identity of the person making a Whistleblower report is kept confidential and will not be divulged, without the consent of that person, except so far as it may be necessary to ensure the matter is fully investigated or where required as a statutory reporting requirement. This policy provides for Whistleblower(s) to be informed about the outcome of the disclosure and the result of any investigation undertaken.

Victimisation

Personnel who believe they have suffered victimisation or a Whistleblower who believes they have been victimised or subjected to unfair pressure should report their concerns through the normal reporting process or if they are uncomfortable in using that avenue may report their concerns direct to the Principal.

Defamation

This Policy cannot provide personnel or a Whistleblower the protection that is provided under the *Whistleblowers Protection Act 1993* as Anglican schools are not covered by that Act. Consequently the law in relation to defamation applies, except as provided for within the *Reportable Conduct Policy*.

Appeal

Where the Whistleblower is not satisfied that a proper investigation has been carried out for the *Whistleblowers Report* they have made, and all normal managerial avenues to the Principal have been exhausted, a report in relation to the matter may be made to the Chair of the Board.

Reasonable Grounds to Suspect

Whether a discloser would have 'reasonable grounds to suspect' is based on the reasonableness of the reasons for the discloser's suspicion, having regard to all the circumstances when considered objectively. If a disclosure is made without 'reasonable grounds to suspect', the disclosure will not be a qualifying disclosure and the discloser will not have the protections provided for under this policy and the Corporations Act. A discloser can still qualify for protection even if their disclosure turns out to be incorrect.

Vexatious Reporting

This Policy does not protect Staff Members or other individuals who knowingly make unsubstantiated allegations, false claims, or trivial or reckless claims. It also does not protect staff members or other individuals who engage in unreasonable complainant conduct (see the *Unreasonable Complainant Conduct Policy*).

A staff member who is found to have knowingly making a false report shall be subject to disciplinary action.

Whistleblower's Liability

Making a disclosure may not protect the Whistleblower from the consequences of their own involvement in wrongdoing. Active cooperation in an investigation, including an admission of wrongdoing and remorse, may be taken into account when considering disciplinary action.

If implicated in wrongdoing, a Whistleblower must not be subjected to any actual or threatened victimisation in reprisal for making a disclosure under this policy.

Victimisation Protection

The College may also consider a range of other matters to protect an eligible Whistleblower from the risk of suffering detriment via victimisation and to ensure fair treatment of individuals mentioned in a disclosure. Steps it will take to help achieve this may include:

1. assessing whether anyone may have a motive to cause detriment—information could be gathered from an eligible Whistleblower about:
 - a. the risk of their identity becoming known;
 - b. who they fear might cause detriment to them;
 - c. whether there are any existing conflicts or problems in the workplace; and
 - d. whether there have already been threats to cause detriment
2. analysing and evaluating the likelihood of each risk and evaluating the severity of the consequences;
3. developing and implementing strategies to prevent or contain the risks—for anonymous disclosures, and assessing whether the discloser's identity can be readily identified or may become apparent during an investigation;
4. monitoring and reassessing the risk of detriment where required—the risk of detriment may increase or change as an investigation progresses, and even after an investigation is finalised;
5. taking steps to ensure that:
 - disclosures will be handled confidentially, when it is practical and appropriate in the circumstances
 - 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 disclosed.

Schools and individuals may face significant civil and criminal penalties for failing to comply with confidentiality and detrimental conduct provisions.

Compliance

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