

WHISTLEBLOWER POLICY

OUR VISION

Wild Cherry School strives to educate and support the development and potential of each individual child, whilst fostering a creative and ethical community.

OUR VALUES

- Fostering a desire in our students to aim for academic and artistic excellence by providing them with a rich, diverse, and integrated Steiner curriculum.
- Inspiring the children with a lifelong love of learning, a morality that strives for goodness, an appreciation of beauty, and a pursuit of truth.
- Developing respect, trust, and caring for themselves, each other, the broader community, and the earth.

PURPOSE

This purpose of this Policy is to:

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

PRINCIPLES

- Wild Cherry School believes that complaints are an important way in which the school community can provide the school with feedback and so form the basis for future improvements. The school will undertake to respond to both the specific and (where applicable) the systemic issues raised by the complaint.
- Where possible the school encourages concerns and complaints to be identified and resolved speedily and informally; the Complaints and Staff Grievance Policy are designed to apply when that proves more difficult and a formal process is required.
- The person raising the concern or complaint may not be satisfied that the issue has been addressed or resolved. In this case, whether or not the issue has been the subject of the school's Complaints policy, they may decide to make a protected disclosure. Such action will be dealt with under the terms of the school's Whistleblower Policy.
- Personal or professional grievances made by employees are not included within the definition of a protected disclosure. These should be dealt with using the school's Staff Grievance Policy and procedures.
- The school is committed to child safety and has a zero tolerance of child abuse. In the context of this Policy the response to a complaint relating to child safety will be given the highest priority and attention.

AIMS OF THE POLICY

- To comply with the requirements of the Treasury Laws Amendment (Enhancing Whistleblowers Protections) Act 2019 (Cth) (the Act) and other relevant legislation.

- To ensure eligible whistleblowers are protected as set out in the legislation.
- To ensure eligible disclosures are managed appropriately and in compliance with legislation.

LEGAL AND REGULATORY BASIS FOR COMPLIANCE

- *Association Incorporation Reform Act 2021* (Vic)
- *Corporations Act 2001* (Vic)

KEY DEFINITIONS

- **APRA:** Australian Prudential Regulation Authority
- **ASIC:** Australian Securities and Investments Commission
- **ATO:** Australian Taxation Office
- **Discloser:** A person who discloses wrongdoing or an Eligible Whistleblower
- **Disclosable Matter:** Information about which an Eligible Whistleblower has reasonable grounds to suspect concerns:
 - misconduct
 - an improper state of affairs or circumstances
 - illegal activity
 - conduct that represents a danger to the public or financial system

Examples: A Disclosable Matter can include any conduct in relation to the operation of the school that involves:

- fraudulent activity (e.g. bribery, money laundering or misappropriation of funds)
- unlawful or corrupt use of school funds
- improper accounting or financial reporting practices
- negligence
- breach of duty
- dishonest or illegal activity (e.g. theft, dealing in or use of illicit drugs, violence and property damage) (see **Note** below)
- behaviour that is contrary to the Child Safe Standards
- engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or who is planning to make a disclosure

Note: If a disclosure is not about a Disclosable Matter, the person making the disclosure will not qualify for protection under this Policy

Note: 'Illegal Activity' means activity in breach of the *Corporations Act 2001* (Cth) or an offence against any law of the Commonwealth that is punishable by 12 months imprisonment.

Note: An Eligible Whistleblower will have 'reasonable grounds' if the suspicion is:

- founded on facts and information available to the whistleblower having regard to all the circumstances when considered objectively
- a suspicion that other people in a similar position might reasonably draw
- not fanciful, illogical or irrational

An Eligible Whistleblower does not need to prove the suspicion or provide evidence.

If a disclosure is made without 'reasonable grounds', the person making the disclosure will not qualify for Protection under this Policy.

- **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:
 - a Board member
 - School Leaders
 - an auditor of the school or of a related company
 - an actuary of the school or a related company
 - anyone who the Board has authorised to receive disclosures

Note: Other people who can receive a disclosure include:

- Legal practitioners
- ASIC, APRA and other regulatory bodies
- Journalists and members of Parliament (see **Emergency Disclosure** and **Public Interest Disclosure**)

- **Eligible Whistleblower:** A person who is or has been any of the following in relation to the school:
 - a Board member
 - an employee
 - a person who supplies goods or services (paid or unpaid)
 - an employee of a person who supplies goods or services (paid or unpaid)

- a person who is an associate of the school
- a spouse, relative or dependent of any of the above

Note: Students and parents/carers are not Eligible Whistleblowers

- **Emergency Disclosure:** A disclosure made by an Eligible Whistleblower to a journalist or a member of Parliament where the following circumstances are met:
 - the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority
 - 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
 - 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
 - the disclosure of information is no greater than necessary to inform the recipient of the substantial and imminent danger
- **Personal Information** has the same meaning in the Privacy Act 1988 (Cth).
- **Protection:** means:
 - 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

To qualify for Protection under this Policy, disclosers must:

- be made an Eligible Whistleblower
- be made an Eligible Recipient
- concern a Disclosable Matter

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

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

Exception: The school may be required to disclose the identity of the Eligible Whistleblower to ASIC, APRA, the VRQA, the Department of Education and Training, the Australian Federal Police, or a legal practitioner in order to obtain advice about the whistleblower protections.

It is also permissible to disclose information which could lead to the identification of the Discloser if the disclosure is reasonably necessary for the purpose of investigating the matter, if all reasonable steps are taken to reduce the risk that the Discloser will be identified as a result of the information being disclosed.

It is illegal for a person to reveal the identity of an Eligible Whistleblower, or information likely to lead to the identification of an Eligible Whistleblower, outside of these circumstances.

Tips to maintain confidentiality: see **Appendix D**.

- the Eligible Whistleblower is protected from criminal, civil and administrative liability (including disciplinary action) in relation to the disclosure

Note: Protections do not grant immunity for any misconduct a Discloser has engaged in that is revealed in their disclosure.

- the Eligible Whistleblower is protected from suffering any detriment by reason for the disclosure

Note: Detriment has a very broad meaning and includes:

- retaliation
- harassment or intimidation
- victimisation
- discrimination
- dismissal of an employee
- injuring an employee
- alteration of an employee's position or duties to their disadvantage
- harm or injury to a person
- damage to a person's property, reputation, business or financial position
- the threat of such behaviour

Examples of actions that **are not** detrimental include:

- reasonable administration action
- managing unsatisfactory work performance

Note for Eligible Whistleblowers: If you believe you are or have been subject to a detriment (or a threat of detriment) because of the disclosure, you should immediately report this in writing to (as appropriate):

- the School Leaders
- the Chair of the Board

- a legal practitioner

If you have suffered a detriment (or a threat of detriment) because of the disclosure, you may be able to seek compensation or another remedy.

Tips for preventing Disclosers from detriment: See **Appendix E**

- the Eligible Whistleblower can seek compensation and other remedies

Note: Remedies available to an Eligible Whistleblower could include:

- compensation
- injunction
- apology
- reinstatement of a person whose employment is terminated

- the Eligible Whistleblower can receive support (see **Appendix C**)

- **Public Interest Disclosure:** A disclosure made by an Eligible Whistleblower to a journalist or a member of Parliament where the following circumstances are met:
 - the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority
 - at least 90 days has passed since the first disclosure was made
 - the Eligible Whistleblower does not have reasonable grounds to believe action is being, or has been, taken to address the information in the disclosure
 - the Eligible Whistleblower has reasonable grounds to believe that making a further disclosure of the information would be in the public interest
 - 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
 - the extent of information disclosed is no greater than necessary to inform the recipient of the Disclosable Matter
- **VRQA:** Victorian Registration and Qualifications Authority

SCOPE

- The Policy applies to:
 - all staff
 - any person wishing to make a disclosure

- any person authorised to receive a disclosure
- The Policy does not apply to:
 - complaints or allegations of staff misconduct
 - complaints or allegations made by students or parents
 - personal work-related grievances (see **Note** below)
 - disclosures about reportable conduct
 - unlawful discrimination, harassment or bullying

Note: Examples of personal work-related grievances include:

- interpersonal conflicts between employees
- decisions relating to the engagement, transfer or promotion of an employee
- decisions to suspend or terminate the engagement of an employee, or discipline an employee
- workplace bullying disputes

Exception: A personal work-related grievance may still qualify for Protection if:

- it is a mixed report (e.g. it includes or is accompanied by a personal work-related grievance)
- the school has breached employment or other laws punishable by 12 months or more imprisonment, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the Discloser's personal circumstances.
- the Discloser suffers from or is threatened with detriment for making a disclosure
- the Discloser seeks legal advice or representation about the Protections

ROLES AND RESPONSIBILITIES

- The Board is responsible for:
 - determining this Policy and reviewing it on a biennial basis
 - responding to disclosure when authorised to do so
 - monitoring the number, nature and outcome of disclosures, whilst maintaining confidentiality
- The School Leaders are responsible for:
 - overseeing a school culture where concerns and complaints are addressed appropriately and handled respectfully and fairly

- ensuring that this Policy is communicated to all staff and the school community;
- establishing processes to manage and investigate disclosures made under this Policy;
- retaining a confidential register of disclosures made under this policy for purpose of reporting to the Board
- providing training for staff and retaining a record of that training
- Eligible Recipients are responsible for:
 - understanding the School's Whistleblower Policies and procedures
 - undertaking training
 - receiving and responding to a disclosure made under this Policy
- Staff are responsible for:
 - understanding the School's Whistleblower Policies and procedures
 - undertaking training

LINKS TO OTHER POLICIES

- Child Safe Standards Policy
- Staff Grievance Policy
- Complaints Policy
- Equal Opportunity and Anti-Harassment Policy
- Reportable Conduct Policy

COMMUNICATION OF THE POLICY

- This Policy will be published on the Wild Cherry School website
- This Policy will be made available to Board members and all staff

POLICY IMPLEMENTATION DOCUMENTS

- Key documents required to implement this policy will include procedures, checklists and pro forma, such as:
 - Process for making a disclosure (Appendix A)
 - Process for handling and investigating a disclosure (Appendix B)
 - Support for Eligible Whistleblowers and others involved in the process (Appendix C)
 - Maintaining confidentiality of Eligible Whistleblowers (Appendix D)



- Protecting Eligible Whistleblowers from detriment (Appendix E)

POLICY REVIEW

The governing Board will review the Whistleblower Policy as new legislation comes into effect and, in any event, on a biennial basis.

Date Approved: 9 May 2022

Date for Review: 9 May 2024

APPENDIX A: PROCESS FOR MAKING A DISCLOSURE

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:
 - School Leaders via email principal@wildcherry.vic.edu.au or phone 5152 1966
 - Chair of the Board via email egseginc@wildcherry.vic.edu.au

SEEK ADVICE

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

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 School Leaders via email principal@wildcherry.vic.edu.au
- If it is not appropriate for the disclosure to be made to the School Leaders, the Eligible Whistleblower can make the disclosure in writing to the Chair of the Board via email egseginc@wildcherry.vic.edu.au

Tips for Eligible Whistleblowers making a disclosure

- clearly state the information and facts on which you have based your concern
- only disclose the names and contact details of other people connected to the disclosure to the extent necessary for the Eligible Recipient to understand the nature of the concern
- provide your name and contact details. Alternatively, you can report anonymously

Note: Where a disclosure is made to an Eligible Recipient who are not the School Leaders, then subject to confidentiality protections set out below, the disclosure will generally be passed onto the School Leaders

Information about making an anonymous disclosure

An Eligible Whistleblower can choose to remain anonymous. However, an anonymous disclosure may make it difficult to investigate the matter. The school therefore encourages Eligible Whistleblowers to provide their name and contact information. If an Eligible Whistleblower wishes to remain anonymous, they should provide sufficient information to allow the matter to be properly investigated.

The school encourages the Eligible Whistleblower to provide an anonymous email address through which additional questions can be asked and information provided. It will also allow the school to report on the progress of the investigation.

Alternatively, the Eligible Whistleblower may adopt a pseudonym for the purpose of their disclosure.

APPENDIX B: PROCESS FOR HANDLING AND INVESTIGATING A DISCLOSURE

ACKNOWLEDGE RECEIPT OF THE DISCLOSURE

- The School will acknowledge receipt of the disclosure within 7-10 business days

ASSESS THE DISCLOSURE

- The school will assess the disclosure to determine whether:
 - it qualifies for Protection under this Policy
 - 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
 - the anticipated timeframe for the investigation

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
 - make recommendations for action

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 School Leaders 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.

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:
 - when the investigation process has begun
 - while the investigation is in progress
 - after the investigation has been finalised

Note: The frequency and timeframe of any updates may vary depending on the nature of the disclosure. The school will also have regard to confidentiality considerations when providing updates.

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
 - employees about whom disclosures are made may contact the entity'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.



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 School Leaders 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.



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APPENDIX C: SUPPORT FOR ELIGIBLE WHISTLEBLOWERS AND OTHERS INVOLVED IN THE PROCESS

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

- Employees may seek support from the school's employee assistance program (EAP)
- An Eligible Whistleblower may have a support person present in any meetings with the investigator or other authorities

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
- 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

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- 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
- 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

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
 - 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
- 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

Note: An Eligible Whistleblower may seek independent legal advice if they believe they have suffered a detriment.