



Star of the Sea College

Whistleblower Protection Policy

Star of the Sea College is a Catholic Independent Girls' school, founded by the Presentation Sisters in 1883. Since 2014, Star of the Sea has operated under the auspices of Kildare Ministries.

1. Rationale

This Whistleblower Protection Policy (**policy**) is underpinned by a strong commitment to building a culture in Star of the Sea College (**College**) that reflects sound governance and ethical behaviour. In accordance with that commitment, the policy provides a foundation for investigation and response where there are reasonable grounds to suspect misconduct, or an improper state of affairs or circumstances, in relation to the College.

The policy provides protection to whistleblowers by establishing a mechanism for concerns to be raised on a confidential basis without fear of reprisal. The policy was developed following amendments to the *Corporations Act 2001 (Cth)* for enhancing whistleblower protections and complements the College's existing *Grievance Policy & Procedures*. Whilst the scope of this policy is set out below, the College encourages all students, parents and staff to raise any concerns or complaints with the College. All concerns and complaints will be handled sensitively.

2. Scope

This policy applies in respect of relevant disclosures made under the policy by individuals who are, or have been Board directors, its Committee members, officers, associates, employees or contractors performing work for the College (including individuals, whether paid or unpaid, who supply goods or services to the College and their employees), and their relatives and dependents.

It is recognised that there are forms of alleged employee conduct committed against, with or in the presence of a child, such as relevant sexual offences, sexual misconduct, physical violence, behaviour that causes significant emotional or psychological harm and significant neglect that constitute 'reportable allegations'. The required management of these forms of conduct is dealt with under the *Reportable Conduct Scheme* and the College's *Child Safety Policies* and procedures. Other obligations may also be relevant, such as reporting of alleged criminal behaviour to police and mandatory reporting to the Department of Health and Human Services.

3. Definitions

Detriment means:

- dismissal of an employee
- injury of an employee in his or her employment
- alteration of an employee's position or duties to his or her disadvantage
- discrimination between an employee and other employees of the same employer
- harassment or intimidation of a person
- harm or injury to a person, including psychological harm
- any other damage to a person



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Disclosure means information provided by a whistleblower who has reasonable grounds to suspect misconduct, or an improper state of affairs or circumstances, in relation to the College, not including disclosures about a personal work-related grievance.

Eligible recipient means senior management, the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA), a prescribed Commonwealth authority, or a legal practitioner.

Personal work-related grievance means a grievance about any matter in relation to a person's employment, or former employment, having personal implications, and the information does not have significant implications, beyond the personal implications, for the College. Examples of disclosures regarding personal work-related grievances that may not qualify for protection include:

- an interpersonal conflict between the discloser and another employee
- a decision relating to the engagement, transfer or promotion of the discloser
- a decision relating to the terms and conditions of engagement of the discloser
- a decision to suspend or terminate the engagement of the discloser, or otherwise discipline the discloser.

Misconduct means conduct by a person or persons connected with the College, which the whistleblower has reasonable grounds to suspect, is (among other things):

- dishonest;
- fraudulent;
- corrupt;
- negligent;
- illegal (including theft, drug sale/use, criminal damage etc);
- in breach of Commonwealth or state legislation or local authority by-laws;
- unethical (including a breach of the College's *Code of Conduct* and *Child Safety Policies* and/or other College Policies);
- other serious improper conduct;
- an unsafe work practice;
- representative of gross mismanagement, serious and substantial waste of money or resources and/or a repeated breach of administrative procedures
- other conduct which may cause financial or non-financial loss to the College or be otherwise detrimental to the interests of the College.

Reasonable grounds to suspect means more than mere conjecture and would usually require some factual basis.

Senior Management means, as relevant, the employer, the Principal and Deputy Principal, employees of the College who have authority over the direction or management of the College, Board members or College auditor.

Whistleblower means an individual who is or has been any of the following in relation to the College:



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- a Board member
- an employee
- a person who supplies goods or services (paid or unpaid)
- an individual who is an associate of the College (as defined in the *Corporations Act*); and
- a relative or dependent (or dependents of a spouse) of any individual described above

4. Protections and support

The College encourages all persons covered by this policy to report misconduct or an improper state of affairs or circumstances, in relation to the College, and is committed to protecting and supporting those persons who do so.

The protections provided to a whistleblower under this policy apply to the disclosure of information where the whistleblower has reasonable grounds to suspect misconduct or an improper state of affairs or circumstances in relation to the College and do not apply in circumstances where a person discloses information that they know to be untrue. Information that is disclosed regarding matters that do not relate to misconduct or an improper state of affairs or circumstances in relation to the College do not qualify for protection under legislation.

A whistleblower under this policy will not be subjected to any detriment or threat of detriment for making a disclosure and will be covered by all of the protections provided under Commonwealth legislation providing for whistleblower protections.

The College will maintain the confidentiality of a whistleblower and any information that would be likely to lead to the identification of the whistleblower, subject to law and any authorisation by the whistleblower allowing for identification in the context of an investigation of a disclosure.

5. How disclosures may be made

Disclosures may be made, either verbally or in writing. Disclosures may be made anonymously and such disclosures are protected by the operation of this policy. However, anonymity may make it difficult to investigate the reported matter. Therefore, the College encourages disclosers to provide their names.

If the discloser wishes to disclose anonymously, they 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. This also allows the College to report the progress of the investigation as appropriate.

While a whistleblower can make a disclosure directly to any eligible recipient, the College encourages disclosures to be made in writing by:

1. sending an email to the Principal; or
2. writing a letter to the College addressed to the Principal.

If it is not appropriate for the disclosure to be made to the Principal, the whistleblower is encouraged to make the disclosure, in writing, to the Deputy Principal Staff who will immediately report to the Chair of the College Board.

If the disclosure relates to a Board member, the whistleblower is encouraged to make the disclosure, in writing, to the Principal. The Principal will inform Kildare Ministries.



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Where a disclosure is made to a member of senior management who is not the Principal (ie. Board member, senior manager, auditor) then subject to confidentiality protections, it will generally be passed onto the Principal.

If a whistleblower wishes to obtain additional information about whistleblowing procedures and protections before formally making their disclosure, they can contact the Deputy Principal Staff or an independent legal advisor.

Disclosures made externally may also qualify for protection if they are made to ASIC, APRA, or a prescribed Commonwealth body, or if a whistleblower makes a disclosure for the purpose of obtaining legal advice or legal representation about the provisions of the whistleblower legislation.

Whistleblowers who make a 'public interest disclosure' or an 'emergency disclosure' as set out in the *Corporations Act 2001* also qualify for protection.

For a public interest disclosure, a whistleblower may make a disclosure 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 time of the first disclosure to ASIC, APRA or a prescribed Commonwealth authority; and
- the whistleblower does not have reasonable grounds to believe action is being, or has been, taken to address the information in the disclosure; and
- the 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 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 the information disclosed is no greater than necessary to inform the recipient of the disclosable matter.

A whistleblower may wish to consider obtaining independent legal advice before making a public interest disclosure.

For an emergency disclosure, a 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 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 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.

A whistleblower may wish to consider obtaining independent legal advice before making an emergency disclosure.



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6. How investigations are to be conducted

All disclosures that qualify for protection will be subject to thorough investigation. Following receipt of a disclosure, the disclosure will be assessed to determine whether it qualifies for protection under the *Corporations Act 2001* or the disclosure concerns matters that should be managed in accordance with related College policies. Personal work-related grievances will be addressed in accordance with the College's *Grievance Policy & Procedures*.

How the College investigates a qualifying disclosure will depend on the nature of the disclosure.

Generally, an investigation will involve making inquiries or collecting evidence for the purpose of assessing the disclosure made by the whistleblower and to 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.

All reports and investigation procedures will be dealt with promptly.

Where practicable, the College will keep the whistleblower informed of the steps taken or to be taken (or if no action is to be taken, the reason for this), and provide appropriate updates and inform about the completion of any investigation. However, the extent of information, or whether it will be provided at all, will be subject to applicable confidentiality considerations, legal obligations and any other factors that the College considers are relevant to the particular situation.

7. Ensuring fair treatment for employees mentioned in disclosures

The principles of procedural fairness will apply to the conduct of investigations regarding disclosures. The person against whom any relevant allegations are made will be informed accordingly and will be provided an opportunity to respond.

The College will take steps to ensure the fair treatment of employees who are mentioned in a disclosure that qualifies for protection, including:

- disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
- when an investigation needs to be undertaken, the process will be objective and fair; and
- employees about whom disclosures are made will generally be given an opportunity to respond to the relevant allegations made in the qualifying disclosure.

The College's Employee Assistance Program services will be available to employees affected by the disclosure, should they require that support.

The College will document the steps of the investigation and the findings from the investigation and report to those responsible in the College. 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 discloser.



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8. Confidentiality and records

Under the *Corporations Act 2001*, the identity of the discloser of a qualifying disclosure and information which is likely to lead to the identification of the discloser must be kept confidential.

Exceptions to this are disclosures to ASIC, the Australian Federal Police, a legal practitioner for the purpose of obtaining advice about the application of the whistleblower protections or made with the consent of the discloser.

If a disclosure involves an issue which the College is required to report, the College may not be able to maintain the confidentiality of the identity of the discloser.

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.

Breach of these confidentiality protections is a criminal offence and may be subject of criminal, civil and disciplinary proceedings.

Confidentiality will be observed in relation to handling and storing records.

9. Whistleblower protections and support

Whistleblowers making a qualifying disclosure are protected by the requirement that their identity, and information that may lead to their identification, should be kept confidential, subject to the exceptions stated.

The College will protect a whistleblower's identity by appropriately redacting documents and referring to the whistleblower in gender-neutral terms.

Whistleblowers who make a qualifying disclosure cannot be subject to any civil, criminal or administrative liability for making the disclosure. They are also protected from victimisation or detriment by reason of the disclosure.

Any alleged detriment should be reported in writing to the Principal, or if it is not appropriate for the report to be made to the Principal, in writing to the Deputy Principal Staff who will report to the Chair of the College Board.

A court may grant remedies to whistleblowers for being subjected to detriment including compensation, injunctions, apologies, reinstatement of a person whose employment was terminated, and exemplary damages.

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



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10. How the policy is to be made available to employees

This policy is to be made available to all officers, employees and contractors at the College by way of the intranet and policy resource documents. The policy will be the subject of induction and subsequent in-service training. This policy does not form part of any College employment contract or other contract of engagement and may be changed at any time. The current version will be available on the College's website.

11. Examples of disclosures

Inappropriate Electronic Material

An employee brings to work a personal DVD containing image files of adults that are sexually explicit. They download the images to their work computer and then decide to circulate some of the images to colleagues. A colleague who receives the images uses the provisions of the Whistleblower Protection Policy to report the matter confidentially, as the actions are in breach of acceptable ICT Usage policies.

Suspicious Behaviour involving College Funds

An employee is relieving a colleague who is on annual leave and is asked by a parent why they have not received a receipt for the last cash payment they made to the College. The replacement employee advises that they will follow up the parent's inquiry. The replacement employee is suspicious that fraudulent misconduct may be occurring. They decide to report the matter confidentially and in line with the Whistleblower Protection Policy.



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Responsible Officer	Principal
Approved By	College Board
Commenced	March 2020
Review By	March 2023
Relevant Legislation	<i>Corporations Act 2001 (Cth)</i>
Related Policies & Procedures	Kildare Ministries Whistleblower Policy Child Friendly Child Safe Policy Child Protection – Reporting Obligations Policy Child Safety Code of Conduct Policy Child Safety Policy Code of Conduct Grievance Policy & Procedures Privacy Policy Reportable Conduct Policy Workplace Anti-bullying Policy Respectful Relationships Policy
Version	2
Amendments	Added Kildare Minisitries Policy to list