



WHISTLEBLOWER POLICY

PURPOSE

The College is committed to ensuring individuals who disclose wrongdoing in relation to the College can do so safely and with confidence that they will be protected and supported.

This policy has been developed following the new amendments to the *Corporations Act 2001* (the Act) for enhancing whistleblower protections and compliments the College's *Communications, Concerns and Complaints Procedure* and *Policy for dealing with Staff Concerns, Complaints and Grievances*.

This Policy provides guidance on how the College manages disclosures made in relation to the College.

SCOPE

This policy applies to all College Directors, Employees, Parents, Students, Contractors, Visitors or just anyone who interacts with the College.

It is the responsibility of all College staff and stakeholders (Directors, Parents, Students, Contractors and Visitors) to adhere to the statements and procedures established in this policy.

RELATED POLICIES AND LEGISLATION

This document is to be read in conjunction with the following related documents:

- Communications, Concerns and Complaints Policy and Procedure
- Policy and Procedure for Dealing with Staff Concerns, Complaints and Grievances
- Child Protection Policy
- Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019
- Corporations Act 2001 (Cth)
- Taxation Administration Act 1953 (Cth)

DEFINITIONS

Detrimental action includes dismissal from employment, altering an employee's position or duties to their disadvantage, discrimination, victimisation, harassment or intimidation or harm including psychological harassment, or damage to reputation or financial position.

Disclosable Matter is one where the discloser has reasonable grounds to suspect that information relating to the College concerns misconduct or an improper state of affairs or circumstances. This information can be about the College or an officer or employee of the College engaging in conduct that breaches the Corporation Act, or illegal activity or represents a danger to the public. This may include any conduct in relation to the operation of the College that involves fraudulent activity, unlawful or corrupt use of school funds, improper accounting or financial reporting practices, systemic practices that pose a serious risk to the health and safety of any person on school premises or during school activities.

Eligible Whistleblower is an individual who is or has been related to the College, including Board members, Committee members, employees, contractors, employees of contractors, volunteers, associates of the College or a relative of any such individual. It could cover parents who are helping the School in a volunteer capacity even if they have volunteered on one occasion.

Eligible Recipient is an individual who occupies any of the following roles in relation to the College: Principal, Deputy Principals, Company Secretary, Director Staff Services, Board members and External Advisors including Auditors or Legal Advisors.

Protection of Confidentiality means that the identity or the information that is likely to lead to the identification of a whistleblower is kept confidential.

Qualifying Disclosure is when an *eligible whistleblower* makes a disclosure to an *eligible recipient*, and the eligible whistleblower has *reasonable grounds* to suspect that the information concerns a *disclosable matter*.

Reasonable grounds mean a reasonable person in the same position would also suspect the facts and information indicates misconduct or breach of law.

POLICY STATEMENT

1. Concerns and complaints which do not fall under the definition of a 'disclosable matter' will be handled in accordance with the College's *Communications, Concerns and Complaints Procedure*.
2. Disclosures that concern solely personal employment-related grievance, such as interpersonal conflict with another employee, or decision about terms and conditions of employment, do not generally come under the provisions of this Policy. However, the person will have rights and protection under employment or contract law and these reports will be handled under the College's *Policy for dealing with Staff Concerns, Complaints and Grievances*.
3. Disclosures about reportable conduct will be addressed in accordance with the College's *Child Protection Policy*.
4. The College will provide protection for a whistleblower where:
 - a. the person is an *eligible whistleblower*,
 - b. the disclosure is made to an *eligible recipient*, and
 - c. the whistleblower has *reasonable grounds* to suspect that the information being reported is a *disclosable matter*.
5. The whistleblower is entitled to the *protection of confidentiality* and the College is committed to the protection of the whistleblower against action taken in reprisal for making qualifying disclosures provided the disclosure is made in good faith and is based on *reasonable grounds* and in accordance with this policy.
6. The whistleblower is also protected against certain legal actions from making the disclosure, including criminal prosecution, civil litigation or administrative action. All *qualifying disclosures* must be made in good faith. Abuse of the reporting procedure and invalid disclosures will be treated seriously and may result in legal action and or disciplinary action.
7. The College will not disclose either the information or the identity of the whistleblower without the whistleblower's consent unless that disclosure is specifically required by law.
8. A whistleblower who reports anonymously will have the matter investigated in the same manner, although the College will not be able to follow up with the anonymous whistleblower for further information nor inform the steps that had been taken following the report. However, this may make it difficult to investigate the reported matter. The College therefore encourages disclosers to provide their names and / or sufficient information to allow the matter to be properly investigated.

PROCEDURE

1. While an *eligible whistleblower* can make a disclosure directly to any *eligible recipient*, the College encourages them to make a disclosure in writing by sending an email to the Principal (Principal@monte.nsw.edu.au) or writing a letter to the College addressed to the Principal and marked confidential.
2. If it is not appropriate for the disclosure to be made to the Principal, the *eligible whistleblower* is encouraged to make the disclosure, in writing, to a Deputy Principal who will immediately report to the Chair or Deputy Chair of the College Board. An *eligible whistleblower* may also make the disclosure directly to the Congregation Leader if other *eligible recipients* are not appropriate.
3. If the disclosure relates to a Board member, the *eligible whistleblower* is encouraged to make the disclosure, in writing, to the Principal who will immediately report to the Congregation Leader.
4. Where a disclosure is made to an *eligible recipient* who is not the Principal, then subject to the *confidentiality protections*, it will generally be passed onto the Principal and dealt with in accordance with this Policy.
5. If an *eligible whistleblower* wishes to obtain additional information about whistleblowing procedures and protections before formally making their disclosure, they can contact the Principal or an independent legal advisor.
6. The *Eligible Recipient* will note the key points of the concern and inform the whistleblower of his/her rights under this Policy.
7. The *Eligible Recipient* will refer the concern to the College Principal who shall in the first instance, review the relevant documentation including notes of discussion or any written correspondences to determine if the matter is a disclosable matter under this Policy.
8. If the matter is deemed to be a *disclosable matter*, the College Principal shall decide the appropriate action(s) to take. This may include initiating an internal investigation, a more formal inquiry, or taking alternative appropriate actions. How the College investigates a qualifying disclosure will depend on the nature of the disclosure.
 - a. An investigation will generally involve the making of inquiries or collection of evidence for the purpose of assessing the disclosure made by the whistleblower.
 - b. External professionals may be engaged to assist or conduct the investigation process.
 - c. The *qualifying disclosure* will be thoroughly investigated.
9. All records and reports from the whistleblower including the investigation process and outcomes are to be kept confidential at all times.
10. The College will document the steps of the investigation and the findings from the investigation and report those findings 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.
11. The identity of the discloser of a *qualifying disclosure* and information which is likely to lead to the identification of the discloser must also be kept confidential. 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 disclosure. This disclosure could include NSW Police, the NSW Ombudsman, NSW Education Standards Authority or the NSW Department of Education.
12. 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.
13. Any breaches of confidentiality, other than as required by the investigation process, constitutes a criminal offence and may be the subject of criminal, civil and disciplinary proceedings.
14. If the matter is not deemed to be a *disclosable matter* under this Policy, the *Eligible Whistleblower* will be informed and advised as to how the matter will be handled through the relevant College Policy.

15. If the matter involves illegal activity, the Chair of Board will be notified immediately and the relevant authorities informed.
16. If the whistleblower has provided contact details, the College will endeavour where possible to keep the whistleblower informed of the investigation as it proceeds, the outcome of the investigations and any remedial actions taken to address the misconduct.
17. If the whistleblower has experienced *detrimental action* or threats of detrimental action as a result of the whistleblower disclosure, he/she may seek remedial actions under the provisions of this Policy through the College Principal or the Chair of College Board.
18. The College will take steps to ensure the fair treatment of employees who are mentioned in a disclosure that qualifies for protection:
 - 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;
 - employees about whom disclosures are made will generally be given an opportunity to respond to the relevant allegations made in the *qualifying disclosure*.
19. The College's employee assistance program (EAP) services will be available to all *eligible whistleblowers* and other employees affected by the disclosure, should they require that support.

ENDORSED BY:	COLLEGE FINANCE AND RISK COMMITTEE
MANAGEMENT RESPONSIBILITY:	DIRECTOR FINANCE AND RESOURCES
DISTRIBUTION:	PUBLIC DOCUMENT / WEBSITE
LAST REVIEWED:	AUGUST 2020
REVIEW CYCLE:	EVERY 2 YEARS

Whistleblower Disclosure Handling Process Flowchart

