

## WHISTLEBLOWER POLICY

### RATIONALE

Torrens Valley Christian School is committed to a culture of integrity and accountability and frameworks to support transparency in decision-making, good governance and ethical behavior.

### INTRODUCTION

As an incorporated association, Torrens Valley Christian School has a legal obligation to observe the provisions of the *Corporations Act 2001 (Cth)* in relation to whistleblowing, effective 1 January 2020.

The purpose of this policy is to establish a procedure to provide whistleblowers with protection, allowing students, parents, staff and others to come forward confidentially and anonymously, to the extent possible under existing laws, and ensuring that they are not victimised or subjected to any form of detrimental action.

This policy can be accessed via the school's website and is made available to Board members and employees.

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

### DEFINITIONS

**A qualifying disclosure** occurs 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.

**An eligible whistleblower** is an individual 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);
- an individual who has an association with the School and
- a relative or dependent (or dependents of a spouse) of any individual described above.

**A disclosable matter** is a disclosure of information where the eligible whistleblower has reasonable grounds to hold concerns in relation to:

- dishonesty;
- unethical conduct;
- misconduct;
- unsafe work practices;
- child abuse;
- illegal acts including theft, drug sale or use, violence or threatened violence and criminal damage against property;
- breaches of relevant laws, regulations, by-laws; or
- any other conduct which may cause loss to the School or be otherwise detrimental to the School.

**Reasonable grounds to suspect:** A discloser would have 'reasonable grounds to suspect' if the discloser has a suspicion that could reasonably be formed based on the facts and information available to them.

**An eligible recipient** is an individual who occupies any of the following roles, in relation to the school:

- an officer (such as a member of the governing body of the school) or senior manager of the school or a related company;
- an auditor, or member of an audit team, of the school or a related company;

- an actuary of the school or a related company; and
- a person authorised by the school (The “Whistleblower Protection Officer”) to receive disclosures that may qualify for protection.
- Eligible recipients also include ASIC, APRA or a prescribed Commonwealth authority.

## REPORTING PROCEDURE

An eligible whistleblower who wishes to make a report in connection with disclosable matter should contact the Public Officer or other eligible recipient (“Whistleblower Protection Officer”) c/- Torrens Valley Christian School.

The School is committed to ensuring the Whistleblower Protection Officer is appropriately qualified for this role and readily accessible.

All reports will be kept confidential and secure. The identity of the discloser of a qualifying disclosure and information which is likely to lead to the identification of the discloser will be kept confidential. All persons making a report are assured that in making a report they will not be personally disadvantaged by dismissal, demotion, any form of harassment, discrimination or current or future bias. The person making the report will be kept informed of the progress of the investigation.

Any person who, having made a report, believes that they have been personally disadvantaged has an automatic right of appeal to The School Board whose decision will be complied with.

Disclosure of wrongdoing may be made:

- Orally or in writing.
- To an authorized Eligible Recipient or to an authorized External Reporting Authority.

If this disclosure is made to a person other than the Eligible Recipient, it must immediately be forwarded, on a confidential basis to an Eligible Recipient.

Situations where an eligible whistleblower can disclose to a member of Parliament or a journalist are outlined in Appendix 2.

## INVESTIGATION PROCEDURES

All reports of disclosable matters will be subject to thorough investigation by the Principal (“Whistleblower Investigations Officer”).

Best practices will be followed by the Whistleblower Investigations Officer who will be fair and independent of the person who made the report and the person who is the subject of the reportable conduct.

The investigation will include the following steps:

1. Full details of the allegations obtained and a full record of the investigation process including steps taken and decisions made;
2. Determination of whether the disclosure qualifies for protection under the *Corporations Act 2001 (Cth)*; (refer to Appendix 1)
3. Person against whom allegations are made is informed;
4. Involvement of external parties such as the police considered by Principal or Chair as appropriate;
5. Allegations fully investigated;
6. Principal or Chair decide on action to be taken; and
7. The person making the report will be kept informed of the progress of the investigation.

Where the Principal or the Chair decide that the allegations warrant external investigation, an external investigator will be engaged.

The identity or any information that could lead to the identity of a person who has made a report will not be released to any person who is not involved in the investigation/resolution of the matter.

The Whistleblower Protection Officer will safeguard the interests of the discloser, making reports under this policy, and will ensure the integrity of the reporting mechanism.

The school’s employee assistance program (EAP) or equivalent will be available to all eligible whistleblowers and other employees affected by the disclosure, should they require that support.

**WHISTLEBLOWER PROTECTION**

Eligible 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, except where there is an obligation for mandatory reporting.

**ABUSE OF REPORTING PROCESS**

All reports made under the confidential reporting process must be made in good faith. Abuse of the confidential reporting process will not be tolerated and will be treated as a serious breach of the School's Code of Conduct.

**MONITORING AND TRAINING**

The School will monitor and review this policy regularly to assess its effectiveness in encouraging the reporting of reportable conduct, protection of persons making reports, and investigation of reports.

Education and training about the procedures involved under this Whistleblower Policy will be provided to those involved in managing or investigating disclosures. The School's community will also be educated and kept informed in relation to the Policy and the protections and procedures contained therein.

## APPENDIX 1: GUIDELINES FOR DETERMINING IF A DISCLOSURE IS COVERED BY THE WHISTLEBLOWER POLICY

All four requirements below must be met for a disclosure to be considered under the *TVCS Whistleblower Policy*.

If all four requirements are not met, the disclosure does not qualify for protection under the *TVCS Whistleblower Policy*. Torrens Valley Christian School will manage the complaint under the appropriate policy, including the *TVCS Complaint Handling Policy*, *TVCS Child Protection Policy* and *TVCS Management of Bullying and Harassment Policy*.

However, disclosures may qualify for protection if they are a 'public interest disclosure' and 'emergency disclosure' or if they are made to ASIC, APRA or a prescribed Commonwealth authority.

Question	Requirement	Details
Who the disclosure is made by?	The disclosure must be made by an eligible whistleblower	<p>An eligible whistleblower is an individual who is <u>or has been</u> any of the following, in relation to the school:</p> <ul style="list-style-type: none"> <li>• a member of the governing body of the school;</li> <li>• an employee;</li> <li>• an individual who has an association with the School;</li> <li>• a person who supplies goods or services (paid or unpaid);</li> <li>• an employee of a person who supplies goods or services (paid or unpaid); and</li> <li>• a relative or dependent (or dependents of a spouse) of any individual described above.</li> </ul> <p>Anonymous complaints, where the discloser's name is not known, can also meet the 'eligible whistleblower' requirement.</p>
Who the disclosure is made to?	The disclosure must be made to an eligible recipient	<p>An eligible recipient is an individual who occupies any of the following roles, in relation to the school:</p> <ul style="list-style-type: none"> <li>• an officer (such as a member of the governing body of the school) or senior manager of the school or a related company;</li> <li>• an auditor, or member of an audit team, of the school or a related company;</li> <li>• an actuary of the school or a related company; and</li> <li>• a person authorised by the school to receive disclosures that may qualify for protection.</li> </ul> <p>Eligible recipients also include ASIC, APRA or a prescribed Commonwealth authority.</p>
The nature of the disclosure?	The disclosure must be about a disclosable matter	<p>Information that concerns:</p> <ul style="list-style-type: none"> <li>• misconduct or an improper state of affairs or circumstances in relation to the school or a related company;</li> <li>• illegal activity of the school or a related company (or its or their officers and employees) – meaning activity in breach of the <i>Corporations Act 2001 (Cth)</i> or specified legislation or an offence against any law of the Commonwealth punishable by imprisonment of 12 months or more; or</li> <li>• a danger to the public or financial system.</li> </ul>
Is there reasonable suspicion by the eligible whistleblower?	The eligible whistleblower has reasonable grounds to suspect	<p>Reasonable grounds to suspect is where the discloser has the suspicion that could reasonably be formed based on the facts and information available to them.</p> <p>It is not required that the recipient believe the suspicion, merely that the suspicion held by the discloser is reasonable.</p>

## APPENDIX 2: SUMMARY OF PUBLIC INTEREST DISCLOSURE AND EMERGENCY DISCLOSURE PROVISIONS

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:

- 90 days has passed since the time of the first disclosure; 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
- the eligible whistleblower informs the original recipient 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 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
- the eligible whistleblower informs the original recipient 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.

Eligible whistleblowers who make a 'public interest disclosure' or an 'emergency disclosure' also qualify for protection.

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