

POLICIES AND PROCEDURES

Policy Name	Whistleblower Policy
Reviewed / Approved by	Executive/Board
Review	Last Review: January 2011. Jan 2013. February 2016, February 2018, March 2019, February 2020, July 2022, March 2024, March 2026 Next Review: March 2028

1 Purpose of this policy

The Whistleblower Policy is an important tool for helping Yarra Valley Grammar (**School**) to identify misconduct or an improper state of affairs that may not be uncovered unless there is a safe and secure way to disclose the matter(s).

The School is committed to encouraging the reporting of any instances of suspected unethical, illegal, fraudulent or undesirable conduct involving the School's businesses and provides protections and measures so that people who make a report can do so confidentially and without fear of intimidation, disadvantage or reprisal.

2 Definitions

In this policy:

"Disclosable Matters" means information that the Eligible Whistleblower has reasonable grounds to suspect (as defined below) constitutes "misconduct" (as defined in this section), or an "improper state of affairs or circumstances" (as defined in this section) in relation to:

- a) the School; or
- b) a related body corporate of the School – for example the Yarra Valley School Foundation Limited.

"Eligible Recipient" means each of the following:

- a) an officer or senior manager of the School or a related body corporate;
- b) an internal or external auditor (including a member of an audit team conducting an audit) or actuary of the School or a related body corporate of the School; and
- c) a person authorised by the School to receive disclosures that may qualify for protection under this Part,

"Eligible Whistleblower" is a person who is, or has been, any of the following:

POLICIES AND PROCEDURES

- a) an officer or employee of the School (this includes current and former employees who are permanent, part-time, fixed-term or temporary, interns, secondees, managers and Board Members);
- b) a person who supplies goods or services to the School or an employee of a person who supplies goods or services to the School (whether paid or unpaid) - this could include current and former volunteers, contractors, consultants, service providers and business partners;
- c) a person who is an associate of the School - for example, a Board Member or company secretary of the School; and/or
- d) a relative, dependent or dependent of the spouse of any person referred to in a) – c) in this definition of Eligible Whistleblower – for example relatives, dependants or spouse of current and former employees, contractors, consultants, service providers, suppliers and business partners.

“Emergency Disclosure” means the disclosure of information to a journalist or parliamentarian, where:

- a) the Eligible Whistleblower has previously made a disclosure of the information to the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA) or another Commonwealth body prescribed by regulation;
- b) 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;
- c) before making the emergency disclosure, the Eligible Whistleblower has given written notice to the Eligible Recipient (i.e. the body to which the previous disclosure was made) that:
 - i. includes sufficient information to identify the previous disclosure; and
 - ii. states that the discloser intends to make an emergency disclosure; and
- d) the extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

“Improper state of affairs or circumstances” is deliberately broad to include matters that may not constitute unlawful conduct in relation to the School or a related body corporate of the School but may indicate a systemic issue that the relevant regulator should know about to properly perform its functions. It may also relate to business behaviour and practices that may cause harm.

“Misconduct” includes a breach of general law, organisational policy or principles of ethics, including:

POLICIES AND PROCEDURES

- a) misconduct (e.g. fraud, negligence, default, breach of trust and breach of duty (e.g. the School's Child Safety Code of Conduct) – for example, it may include:
 - i. illegal conduct such as theft, dealing in, or use of illicit drugs, violence or threatened violence and criminal damage against property;
 - ii. fraud, money laundering or misappropriation of funds;
 - iii. offering or accepting a bribe;
 - iv. financial irregularities;
 - v. failure to comply with, or breach of, legal or regulatory requirements; or
 - vi. engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or is believed or suspected to have made, or be planning to make, a disclosure.
- b) practices endangering the health or safety of staff, volunteers, students or the general public (excluding any complaints about occupational health and safety which should, where possible, be made through the School's occupational health and safety procedures);
- c) a serious mismanagement of the School's resources;
- d) conduct detrimental to the School's financial position or reputation;
- e) maladministration (e.g. an act or omission of a serious nature that is negligent, unjust, oppressive, discriminatory or is based on improper motives);
- f) concealing reportable conduct;
- g) an improper state of affairs or circumstances;
- h) behaviour that represents a danger to the public or the financial system; or
- i) a breach of the:
 - i. *Corporations Act 2001* (Cth) (**Corporations Act**);
 - ii. *Australian Securities and Investments Commission Act 2001*;
 - iii. *Banking Act 1959*;
 - iv. *Financial Sector (Collection of Data) Act 2001*;
 - v. *Insurance Act 1973*;
 - vi. *Life Insurance Act 1995*;
 - vii. *National Consumer Credit Protection Act 2009*;

POLICIES AND PROCEDURES

- viii. *Superannuation Industry (Supervision) Act 1993*
- ix. an instrument made under an Act referred to in this paragraph i);
- j) conduct that constitutes an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;
- k) conduct which represents a danger to the public or the financial system; or
- l) breach of a matter that is prescribed by regulation,

in relation to the School.

“Public Interest Disclosure” is the disclosure of information to a journalist or a parliamentarian, where:

- a) at least 90 days have passed since the Eligible Whistleblower has made the disclosure to ASIC, APRA or another Commonwealth body prescribed by regulation;
- b) the Eligible Whistleblower does not have reasonable grounds to believe that action is being, or has been taken, in relation to their disclosure;
- c) the Eligible Whistleblower has reasonable grounds to believe that making a further disclosure of the information is in the public interest; and
- d) before making the public interest disclosure, the Eligible Whistleblower has given written notice to the body to which the previous disclosure was made that:
 - i. includes sufficient information to identify the previous disclosure; and
 - ii. states that Eligible Whistleblower intends to make a public interest disclosure

“Reasonable grounds to suspect” means grounds based on the objective reasonableness for the Eligible Whistleblower’s suspicion. It ensures that an Eligible Whistleblower’s motive for making a disclosure, or their personal opinion of the person(s) involved, does not prevent them from qualifying for protection. In practice, a mere allegation with no supporting information is not likely to be considered as having ‘reasonable grounds to suspect’. However, an Eligible Whistleblower does not need to prove their allegations.

3 Who and what does this policy apply to?

To be entitled to protection under this policy and the Corporations Act you must be an **“Eligible Whistleblower”** as defined above and meet the following criteria to qualify for protection:

- a) have made a disclosure of information relating to a **“Disclosable Matter”** directly to an Eligible Recipient or to the **ASIC, APRA** or another Commonwealth body prescribed by regulation under the Corporations Act;

POLICIES AND PROCEDURES

- b) have made a disclosure to a legal practitioner for the purposes of obtaining legal advice or legal representation about the operation of the whistleblower provisions in the Corporations Act (even where the legal practitioner concludes the disclosure does not amount to a Disclosable Matter); or
- c) have made an **“Emergency Disclosure”** or **“Public Interest Disclosure”**.

An Eligible Whistleblower can still qualify for protection even if their disclosure turns out to be incorrect. However, the School discourages false disclosures.

4 Matters the policy applies to

This policy applies to a Disclosable Matter.

4.1 Personal work-related grievances

Disclosures that relate solely to personal work-related grievances, and that do not involve a detriment, or threat of detriment caused to an Eligible Whistleblower, are not Disclosable Matters and are not protected under the Corporations Act and this policy.

A personal work-related grievance is one that relates to your current or former employment that has, or tends to have, implications for you personally but does not have significant implications for the School, or does not relate to any conduct, or alleged conduct, about a Disclosable Matter.

An example of a personal work-related grievance that is not protected by law could include if you believe you have missed out on a promotion that you deserve, a grievance about disciplinary action taken against you, if you do not like the managerial style of your supervisor or the terms and conditions of your engagement at the School.

However, a personal work-related grievance may still qualify for protection under the law if (for example):

- a) it is a mixed report that includes information about a Disclosable Matter (as well as a work-related grievance);
- b) the School has broken employment or other laws which are punishable by imprisonment for 12 months or more or acted in a way that is a threat to public safety;
- c) the disclosure relates to information that suggests Misconduct that goes further than the Eligible Whistleblower's personal circumstances; or
- d) the Eligible Whistleblower suffers from or is threatened with detriment for making a disclosure of a Disclosable Matter.

5 Anonymity when reporting

An Eligible Whistleblower may choose to remain anonymous when disclosing a Disclosable Matter and still receive protection.

POLICIES AND PROCEDURES

Any Eligible Whistleblower may choose to remain anonymous over the course of the investigation and after the investigation is finalised. They may refuse to answer any questions they feel could reveal their identity at any time, including during follow-up conversations. Maintaining two-way communications will allow the School to ask follow-up questions or provide feedback, while maintaining their anonymity.

6 How to make a report and to whom

6.1 Making an internal disclosure

Disclosures can be made using any of the channels below (as each is an Eligible Recipient of a Disclosable Matter):

- a) an officer, Board Member or senior manager of the School;
- b) an internal or external auditor of the School (Matthew Bilney, Ernst and Young 0418 922 200);

6.2 Making an external disclosure

Disclosures may also be protected when made to:

- a) ASIC;
- b) APRA;
- c) The Integrity Line at WorkLogic (www.worklogic.com.au);
- d) another Commonwealth authority prescribed by law; or
- e) the School's external auditor (Matthew Bilney Ernst and Young 0418 922 200);

7 Protections for Eligible Whistleblowers

Eligible Whistleblowers eligible for protection in accordance with section 3 of this policy will receive all of the following protections, regardless of how they made a disclosure (internally, externally or to a legal practitioner):

- a) **Identity protection**
 - i. It is illegal for a person within the School to identify Eligible Whistleblowers or disclose information that is likely to lead to their identification. If you are an Eligible Whistleblower entitled to protection, your identity and position (or any other information which would be likely to identify you) will only be shared if:
 - you consent in writing to the disclosure;
 - the disclosure is made to ASIC, APRA or the Australian Federal Police;

POLICIES AND PROCEDURES

- the disclosure is made to a legal practitioner for the purpose of obtaining advice; and/or
 - the disclosure is authorised under the Corporations Act.
- ii. Staff members who breach the identity protection provisions outlined in this section will be subject to disciplinary action, which may include summary dismissal.

b) Protection from detrimental acts or omissions

- i. It is illegal for a person to engage in conduct that causes (or threatens) detrimental treatment to an Eligible Whistleblower in the belief or suspicion that they have made, may make, proposes to make or could make a report of a Disclosable Matter and where that belief or suspicion is a reason for the conduct.
- ii. Detrimental treatment against an Eligible Whistleblower could include:
- 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;
 - damage to a person's property;
 - damage to a person's reputation;
 - damage to a person's business or financial position; or
 - any other damage to a person.
- ii. Detrimental conduct does not include:
- administrative action that is reasonable for the purpose of protecting an Eligible Whistleblower from detriment (e.g. moving an Eligible Whistleblower who has made a disclosure about their immediate work area to another office to prevent them from detriment); or
 - managing an Eligible Whistleblower's unsatisfactory work performance, if the action is in line with the School's performance management framework.

POLICIES AND PROCEDURES

c) access to compensation and other remedies

- i. an Eligible Whistleblower (or any other employee or person) can seek compensation and other remedies through the courts if:
 - they suffer loss, damage or injury because of a Disclosable Matter they have disclosed; and
 - the School failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.
- ii. the School encourages anyone considering making a disclosure to seek independent legal advice in relation to potential remedies available to them.

d) civil, criminal and administrative liability provisions.

- i. an Eligible Whistleblower is protected from any of the following in relation to their disclosure of a Disclosable Matter:
 - civil liability (e.g. any legal action against the Eligible Whistleblower for breach of an employment contract, duty of confidentiality or another contractual obligation);
 - criminal liability (e.g. attempted prosecution of the Eligible Whistleblower for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure); and
 - administrative liability (e.g. disciplinary action for making the disclosure of a Disclosable Matter).
- ii. the protections do not grant immunity for any misconduct an Eligible Whistleblower has engaged in that is revealed in their disclosure of a Disclosable Matter.

8 Procedure - How the School will investigate disclosures

- 1) Once a disclosure has been received from an Eligible Whistleblower, who has provided reasonable grounds for their belief that a Disclosable Matter has occurred, an investigation of those allegations will begin as soon as practicable after the disclosure has been received.
- 2) If the School determines that the disclosure does not amount to a Disclosable Matter, the Eligible Whistleblower will be, if practicable, informed of that decision. In some instances, disclosures may not be able to be responded to, for example, because they are anonymous disclosures.

POLICIES AND PROCEDURES

- 3) If an investigation is conducted, it will:
 - a) follow a fair process;
 - b) be conducted in a timely manner as the circumstances allow; and
 - c) be independent of the person(s) about whom an allegation has been made.
- 4) Provided there are no restrictions or other reasonable bases for doing so, people against whom an allegation has been made will be informed of the allegation and will have an opportunity to respond to any allegation. That is, the School will take steps to ensure fair treatment of any person who is the subject of the Disclosable Matter as well as the Eligible Whistleblower.
- 5) Investigations will be conducted promptly and fairly with due regard for the nature of the allegation and the rights of the people involved in the investigation. The School recognises the importance of balancing the rights of the Eligible Whistleblower and the rights of people against whom a report is made in ensuring fairness.

9 Communications with the Eligible Whistleblower

The School will ensure that the Eligible Whistleblower is kept informed of the outcomes of the investigation of their allegations unless the claim was submitted anonymously. This will be subject to the considerations of privacy of those against whom allegations are made and considerations of confidentiality affecting the School.

If the Eligible Whistleblower is not an employee of the School, the Eligible Whistleblower will be kept informed of the investigative outcomes (subject to other considerations as above), once the Eligible Whistleblower has agreed in writing to maintain confidentiality in relation to any information provided to them regarding a Disclosable Matter made by them.

The School has confidential counselling services available to Eligible Whistleblowers through Converge, the School's Employee Assistance Program.

10 Register

The Principal or their delegate will maintain a register of Disclosable Matters from Eligible Whistleblowers, a copy of any investigation report and actions taken in response to the report. All records will be stored securely.

11 Communications with the Board

POLICIES AND PROCEDURES

The Principal or their delegate will provide a copy of the register mentioned above to the Board of Directors on an annual basis and will inform the Board of Directors upon receipt of a Disclosable Matter requiring investigation.

12 Further policy details

12.1 How this policy is made available

This policy is made available on the School's online portal and on the School's website.

12.2 Related policies

This policy should be read in conjunction with the School's other relevant policies including:

- Child Safety Code of Conduct
- Complaints and Grievances Policy
- Fraud and Corruption Policy

12.3 Revision history

This policy will be reviewed by the Board every two years.