



Protected Disclosures (Whistle-blower) Policy

Policy Classification		
Policy Number:	Date of Origin: July 2018	By Whom: SLT
Policy Audience: Public Domain	Review Dates: 2017, 2018, 2019	Next Review Date: 2021
Policy Approval: This policy was approved by the Senior Leadership Team and Board February 2019.		
This policy supersedes all previous policies relating to matters contained herein.		

1.0 Rationale

- 1.1 The purpose of the Protected Disclosures Policy is to allow Oakhill College Board Directors and committee members, employees, persons who supply goods and/or services and their employees (paid or unpaid), parents, students, and volunteers (whistle-blowers) to disclose information where the discloser has reasonable grounds to suspect that information relating to the school or a related company concerns:
- misconduct;
 - an improper state of affairs or circumstances;
 - illegal activity (including conduct of officers and employees) – meaning activity in breach of the Corporations Act or specified financial services legislation, or an offence against any law of the Commonwealth punishable by imprisonment of 12 months or more; or
 - a danger to the public or financial system. This may include:
 - fraudulent activity;
 - unlawful or corrupt use of school funds;
 - improper accounting or financial practices;
 - systemic practices that pose a serious risk to the health and safety of any person on school premises or during school activities.
- 1.2 Protected disclosures can be made through appropriate and confidential channels without risk of retaliation, victimisation or harassment in any form.

2.0 Guiding Principles

- 2.1 This policy is to ensure procedures are in place for the reporting of serious wrongdoings (disclosable matters) and that all College operations are conducted legally, ethically and with integrity.
- 2.2 This policy aims to:
- give confidence to members of ‘whistle-blowers’ about raising concerns about conduct or practice which is potentially illegal, corrupt, improper, unsafe or unethical or which amounts to malpractice or is inconsistent with college standards and policies so that they are encouraged to act on those concerns
 - provide avenues so that concerns can be raised
 - ensure that ‘whistle-blowers’ receive a response to the concerns they have raised and feedback on any action taken
 - offer assurance that ‘whistle-blowers’ are protected from reprisals or victimisation for whistleblowing action
 - ensure ‘whistle-blowers’ are protected when they report, in good faith, serious wrong-doings by the employer or another employee (not a student or parent)
- 2.3 There are existing policy and procedures in place to enable employees to lodge a grievance or complaint relating to their own employment, disputes, personal concerns, health and safety and other related problems. Such policies include the Grievance and Complaints Policy and the Managing Workplace Complaints Policy. Employees are encouraged to take these issues to their manager. However, this policy has been introduced to help those who may have concerns about doing so.
- 2.4 Personal work-related grievances do not qualify for protection, examples include:
- An interpersonal conflict between 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.
- 2.5 This policy applies to Oakhill College Board Directors and committee members, employees, persons who supply goods and/or services and their employees (paid or

unpaid), parents, students, and volunteers (whistle-blowers. Matters covered by this policy include alleged:

- sexual, physical or emotional abuse
- health and safety issues
- action that has caused or is likely to cause physical danger to any person or risk serious damage to College property
- unlawful conduct
- miscarriages of justice in the conduct of statutory or other processes
- failure to comply with a statutory or legal obligation
- potential maladministration, misconduct or malpractice
- action that has caused or is likely to cause danger to the environment
- abuse of authority
- fraud or corruption
- breaches of financial regulations or policies
- mistreatment of any person
- unfair discrimination
- racist incidents or acts, or racial harassment
- inappropriate use of social media and other technologies
- any attempt to prevent disclosure of any of the issues listed

3.0 Policy

- 3.1 The College will implement training, mentoring, advice and other support systems to ensure 'whistleblowers' understand their avenues for support.
- 3.2 The College will use its best efforts to protect whistle-blowers against retaliation. Whistle-blowing complaints will be handled with sensitivity, discretion, and confidentiality to the extent allowed by the circumstances and the law. Generally, this means that whistle-blower complaints will only be shared with those who have a need to know so that the College can conduct an effective investigation, determine what action to take based on the results of any such investigation.
- 3.3 The College will not tolerate harassment or victimisation of 'whistle-blowers' when matters are raised in accordance with the Protective Disclosures (Whistle-blowing) Policy. Any members of staff, volunteers, parents or students who victimise or harass any person as a result of their having raised a concern in accordance with the Protective Disclosures Policy may be dealt with under the College's disciplinary procedures.
- 3.4 The College recognises that 'whistle-blowers' may want to raise concerns in confidence and will do its utmost to protect the identity of those who raise a concern and do not want their name disclosed. However, investigation into the concern could reveal the source of the information and statements may be required from the member of staff, student or parent as part of the evidence. This would be seen by all parties involved if the investigation and if it leads to prosecution the whistle-blower is likely to be called in to give evidence in court.
- 3.5 If a 'whistle-blower' makes an allegation, but it is not confirmed by further inquiry, the matter will be closed, and no further action taken. If, however, the inquiry shows that untrue allegations were malicious and/or vexatious or made for personal gain then the College will consider taking disciplinary action.
- 3.6 Child Protection issues are to be reported according to the specific guidelines laid out in that Child Protection Policy.

4.0 Procedures and Guidelines

- 4.1 This policy only applies to serious wrongdoing (disclosable matters) as defined below.
- 4.2 A qualifying disclosure is when an eligible whistle-blower makes a disclosure to an eligible recipient, and the eligible whistle-blower has reasonable grounds to suspect that the information concerns a disclosable matter. A disclosable matter is:

- misconduct;
 - an improper state of affairs or circumstances;
 - illegal activity (including conduct of officers and employees) – meaning activity in breach of the Corporations Act or specified financial services legislation, or an offence against any law of the Commonwealth punishable by imprisonment of 12 months or more; or
 - a danger to the public or financial system. This may include:
 - fraudulent activity;
 - unlawful or corrupt use of school funds;
 - improper accounting or financial practices;
 - systemic practices that pose a serious risk to the health and safety of any person on school premises or during school activities.
- 4.3 The Principal will appoint the Director of Human Relations (DHR) who will receive complaints of serious wrongdoing.
- 4.4 Complaints of serious wrongdoing are to be made to the Principal or his delegate the DHR or Director of the Board.
- 4.5 Complaints of serious wrongdoing are to be made in writing. The DHR will ensure that any discussions or investigations carried out protect the confidentiality of the discloser, provided that the allegation is made in good faith (not malicious or motivated by improper motive).
- 4.6 The complaint must be actioned, or a recommendation made for action within 10 working days of the disclosure. Investigate in this sense means authority to receive a complaint, make a judgment as to whether it constitutes serious wrongdoing in terms of the definition below and disclose this finding to the Principal.
- 4.7 A copy of this policy will be available to all staff through the staff portal to the College internet and also to the community through the College website and parent portal.
- 4.8 Whistle-blowers who have knowledge of or information about mismanagement, illegal activities, corruption or misconduct in College operations should report the misconduct in writing to The Director of Human Resources. If a serious allegation of misconduct relates to the Director, a written complaint should be made to the Principal. If a serious allegation of misconduct relates to the Principal a written complaint should be made to the Chair of the Board.
- 4.9 The Director of Human Resources will look into allegations and will provide a written response to the Whistle-blower within 10 working days (except in case of anonymous allegations):
- acknowledging that the concern has been received;
 - indicating how it is proposed to deal with the matter;
 - giving an estimate of how long it will take to provide a final response;
 - advising whether any initial enquiries have been made;
 - advising whether further enquiries will take place;
 - informing the Whistle-blower of support available whilst matters are looked into;
 - feedback is to be provided direct to the Whistle-blower.
 - The Director of Human Resources and/or the Principal will promptly and discreetly investigate any report of misconduct in college operations including anonymous allegations, with the assistance of other College officials as appropriate. The Principal will report the results of their investigation and any recommendations for appropriate corrective and/or disciplinary action to the Chair of the Board. The Principal will decide on the action to be taken before implementing corrective or disciplinary action. The imposition of discipline, if any, will be made in accordance with the College's Code of Conduct. Oakhill College is committed to the Corporations Act 2001 and to whistle-blower protective legislation.

5.0 Policy Review

The College, via the Principal is to ensure that this Policy is monitored and reviewed. Next review date is 2020.

6.0 Explanatory Notes and Definitions

Whistleblowing is the means by which employees, volunteers, parents and students can raise concerns about conduct or practice within the school which is potentially illegal, corrupt, improper, dishonest, unsafe or unethical or which amounts to mismanagement and are able to do so without fear of victimisation and with confidence that their concerns will be taken seriously and dealt with properly. A Whistle-blower is defined as a person who discloses wrong doings, corruption, mismanagement and any illegal activities taking place within the College or related company concerns.

6.1 Protected Disclosures

The following information defines protected disclosures and the procedures pertaining to protected disclosures.

An individual is an eligible discloser (whistle-blower) in relation to a school if they are, or have been, any of the following:

- a Board member;
- an employee;
- a person who supplies goods and services paid or unpaid);
- an employee of a person who supplies goods or services (paid or unpaid); and
- a relative or dependent of any individual described above including parents who are helping the school in a volunteer capacity.

If you are a member of any of these classes of persons, you are able to make a disclosure.

6.2 What is a “protected disclosure”?

Protected means that as long as you have reasonable grounds to believe that a serious wrong- doing is being done by or in the organization you can report in good faith asking that the wrongdoing be investigated without worrying about negative consequences.

A serious wrongdoing or disclosable matter is defined as:

6.3 What is a serious wrongdoing or disclosable matter?

A serious wrongdoing may be any of the following:

- (a) an unlawful, corrupt, or irregular use of public funds or public resources; or
- (b) an act, omission, or course of conduct that constitutes a serious risk to public health or public safety or the environment; or
- (c) an act, omission, or course of conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation, and detection of offences and the right to a fair trial; or
- (d) an act, omission, or course of conduct that constitutes an offence; or
- (e) an act, omission, or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement; misconduct;
- (f) an improper state of affairs or circumstances;
- (g) illegal activity (including conduct of officers and employees) – meaning activity in breach of the Corporations Act or specified financial services legislation, or an offence against any law of eth Commonwealth punishable by imprisonment of 12 months or more; or
- (h) a danger to the public or financial system. This may include:
 - fraudulent activity;
 - unlawful or corrupt use of school funds;
 - improper accounting or financial practices;
 - systemic practices that pose a serious risk to the health and safety of any person on school premises or during school activities.

6.4 How am I protected?

6.4.1 You are “protected” when making a disclosure in the following ways:

- your identity will be confidential unless you give permission to be identified you cannot be victimized by your employer for having disclosed the information
- you are not liable for civil, criminal, or administrative proceedings (including disciplinary action) for disclosing information
- no contractual or other remedy or right may be enforced or exercised against the person on the basis of a disclosure
- you are provided immunities to ensure that information you disclose is not admissible in evidence against you in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information
- you are protected against victimization (actual or threatened detriment) and remedies include:
 - compensation
 - injunction and apologies
 - reinstatement of a person whose employment may have been terminated
 - exemplary damages

6.4.2 If you believe that you have been unfairly treated in your job or unreasonably dismissed following a disclosure you can take a personal grievance against your employer. However, there are some limitations to this.

6.4.3 Every person to whom a protected disclosure is made or referred must use his or her best endeavours not to disclose information that might identify the person who made the protected disclosure unless:

- (a) that person consents in writing to the disclosure of that information; or
- (b) the person who has acquired knowledge of the protected disclosure reasonably believes that disclosure of identifying information:
 - (i) is essential to the effective investigation of the allegations in the protected disclosure; or
 - (ii) is essential to prevent serious risk to public health or public safety or the environment; or
 - (iii) is essential having regard to the principles of natural justice.

6.4.5 A request for information under the Privacy Act (other than one made by a member of the police for the purpose of investigating an offence) maybe refused, as it might identify a person who has made a protected disclosure.

This protection depends on you making the disclosure in accordance with this internal procedure. For the avoidance of doubt and to prevent risk it is important that when making a disclosure that you explicitly claim the protections under this Policy.

6.5 How do I make a Protected Disclosure?

6.5.1 If on reasonable grounds you believe you have information that a serious wrongdoing is occurring [or may occur] within the school and you wish to disclose that information so it can be investigated you can make a protected disclosure to the Director of Human Resources.

6.5.2 This can be done verbally but also must be made in writing. You should identify that the disclosure is being made under the Protected Disclosures Policy and is following the Protected disclosures Policy, provide detail of the complaint [disclosure], and who the complaint is against.

6.5.3 If you believe that the Principal is involved in the wrongdoing or has an association with the person committing the wrongdoing that would make it inappropriate to disclose to them, then you can make the disclosure to the Chairperson of the Board.

- 6.5.4 It is then up to the person you disclose to, to decide if the disclosure constitutes a serious wrongdoing, and that the allegations need investigating. They can decide:
- (a) to investigate the disclosure themselves
 - (b) to forward the disclosure to the Board to investigate
 - (c) whether it needs to be passed on to an appropriate authority. If it goes to an appropriate authority, they will advise you that they are now investigating the complaint.
- 6.5.5 If you believe that both the Principal and the Chairperson of the Board may be a party to the wrongdoing or in close relationship with the person/s involved in the wrongdoing you can approach an external “appropriate authority” directly yourself.
- 6.5.6 Who is an “appropriate authority”?
- As noted above, in some circumstances the disclosure could be made to an appropriate authority by yourself or the person to whom you have made the disclosure. An appropriate authority is defined as including:
- a) an Ombudsman
 - b) the Commissioner of Police
- 6.5.7 Why can I not just go to the appropriate authority myself?
- There are three circumstances when you can go directly to the appropriate authority:
- (a) When you believe that the Head of the organization is also a party to the wrongdoing or has an association with the person which would make it inappropriate for them to investigate.
 - (b) If the matter needs urgent attention or there are other exceptional circumstances.
 - (c) If after 20 working days there has been no action or recommended action on the matter to which the disclosure related.
- Otherwise you need to go through the internal processes.
- 6.5.8 What happens if even the appropriate authority does nothing?
- You could then make the disclosure to the Ombudsman (unless they were the authority you have already disclosed to)
- 6.5.9 The Policy does not protect you if you disclose information to the media or a member of the government.
- 6.5.10 Where can I find out more information?
- If you notify the Office of the Ombudsman verbally or in writing, that you have disclosed or are considering a disclosure under this Policy, they can provide information and guidance on a number of matters including those discussed here and the protections and remedies available if the disclosure leads to victimization.
- 6.5.11 The Investigation
- The investigation will involve receiving the initial complaint. If the complaint is in writing, the DHR will ensure that the complaint has sufficient detail to establish if “serious wrongdoing” has occurred. Any verbal complaints will be documented by the DHR and read by the complainant to ensure the accuracy of the transcript.

The discloser will sign complaints and the confidentiality of the discloser will be protected provided the allegation is made in good faith.

An investigation by the DHR will be sufficient to determine if there has been “serious wrong doing” on the part of the employer or employee. This may involve interviewing the complainant~ viewing evidence provided or interviewing other staff members identified by the complainant. If other staff members are to be interviewed, the principles of natural justice must be observed.

The DHR (other than the Board Chairman) will report the findings in terms of allegations of “wrongdoing” to the Board Chairman (provided the allegations of “wrongdoing” do not involve the Chairman). If necessary, the Board Chairman may refer the allegations to the “appropriate authority” as described in this policy. (Other

scenarios exist: if the disclosure relates to the Principal, Board Chairman or other member of the Board, then the reporting will be to other members of the Board etc.)

7 Related Policies, Procedure and Support Documents

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

- Code of Conduct
- Grievance & Complaints Policy
- Bullying and Harassment Policy
- Managing Workplace Complaints Policy
- Whistle-blowers Protection Act 1993
- Risk Matrix (see below)

Likelihood	Consequences				
	1. Insignificant	2. Minor	3. Moderate	4. Major	5. Catastrophic
A. (Almost Certain)	M	M	H	E	E
B. (Likely)	L	M	H	E	E
C. (Possible)	L	M	M	H	E
D. (Unlikely)	L	L	M	M	H
E. (Rare)	L	L	L	M	H