

POLICY AND PROCEDURES

WHISTLEBLOWER POLICY

GRM 1.8.4

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1. Context

SEDA College is committed to ensuring a robust culture of openness and feedback in which concerns and complaints are addressed appropriately and are handled respectfully and fairly.

This policy falls within the school's governance policy framework and forms part of the school's risk management system. The school is committed to implementing procedures that comply with the school's legal obligations in relation to the protection of eligible whistleblowers and to the management of any eligible disclosure they make.

The purpose of this policy is to:

- Deter wrongdoing and encourage disclosures of wrongdoing
- Ensure disclosures are dealt with appropriately and on a timely basis
- Provide a framework for receiving, handling and investigating disclosures.

2. Definitions

A reference or term included in this policy is defined as follows;

"SEDA College" or "the College" refers to SEDA College (Victoria).

"Staff" or "staff member" or "employee" in this policy includes all employees of SEDA College (Victoria).

For the purpose of this policy, an employee is a person of or over the age of 18 years who is:

- (a) an employee of SEDA College, whether or not the person is employed in connection with any work or activities of SEDA College that relate to children; or
- (b) engaged by SEDA College to provide services, including as a volunteer, contractor, office-holder or officer, whether or not the person provides services to children.

"Child" or "Young Person" is an individual who is under the age of 18 years.

"Whistleblowing" is the disclosure of information by an individual (the 'discloser') to an 'eligible recipient' when the discloser has 'reasonable grounds to suspect that the information concerns misconduct, or an improper state of affairs or circumstances, in relation to the regulated entity'. The disclosure may not involve unlawful conduct but may indicate a 'systemic issue that the relevant regulator should know about.'

"Whistleblower" is a current or former insider within the school.

"The Whistleblower Act" or "the Act" refers to the *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019* (Cth)

"Discloser" A person who discloses wrongdoing or an Eligible Whistleblower.

"Disclosable Matter" Information about which an Eligible Whistleblower has reasonable grounds to suspect concerns regarding:

- misconduct;
- an improper state of affairs or circumstances;
- illegal activity; or
- conduct that represents a danger to the public or financial system.

Examples: A Disclosable Matter can include any conduct in relation to the operation of the College that involves:

- fraudulent activity (e.g. bribery, money laundering or misappropriation of funds);
- unlawful or corrupt use of school funds;
- improper accounting or financial reporting practices;
- negligence;
- breach of duty;
- dishonest or illegal activity (e.g. theft, dealing in or use of illicit drugs, violence and property damage)
- behaviour that is contrary to the Child Safe Standards; or
- engaging in or threatening to engage in detrimental conduct against a person who has made a disclosure or who is planning to make a disclosure.

Note: If a disclosure is not about a Disclosable Matter, the person making the disclosure will not qualify for Protection under this policy.

"Reasonable grounds" An Eligible Whistleblower will have 'reasonable grounds' if the suspicion is:

- founded on facts and information available to the whistleblower having regard to all the circumstances when considered objectively;
 - a suspicion that other people in a similar position might reasonably draw; and
 - not fanciful, illogical or irrational.
- An Eligible Whistleblower does not need to prove the suspicion or provide evidence.

If a disclosure is made without 'reasonable grounds', the person making the disclosure will not qualify for Protection under this policy.

Note: A Discloser may still qualify for Protection even if their disclosure turns out to be incorrect.

"Eligible Recipient" A person who is authorised to receive a disclosure and includes any person who occupies any of the following roles in relation to the school or a related company:

- a Board member;
- a senior manager;
- an auditor of the College or of a related company;
- an actuary of the College or a related company; or

Note: Other people who can receive a disclosure include:

- Legal practitioners;
- ASIC, APRA and other regulatory bodies;
- Journalists and members of Parliament (*see Emergency Disclosure and Public Interest Disclosure*).

"Eligible Whistleblower" A person who is or has been any of the following in relation to the College:

- 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);
- a person who is an associate of the College; or
- a spouse, relative or dependant of any of the above.

Note: Students and parents/carers are not Eligible Whistleblowers.

"Emergency Disclosure" A disclosure made by an Eligible Whistleblower to a journalist or a member of Parliament where the following circumstances are met:

- 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
- before making the disclosure, the Eligible 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.

"Protection" means:

the identity of the Eligible Whistleblower (and information that could identify them) is kept confidential, unless the Eligible Whistleblower consents to their identity being disclosed;

Exception: The College may be required to disclose the identity of the Eligible Whistleblower to ASIC, APRA, the VRQA, the Department of Education and Training, the Australian Federal Police, or a legal practitioner in order to obtain advice about the whistleblower protections.

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.

It is illegal for a person to reveal the identity of an Eligible Whistleblower, or information likely to lead to the identification of an Eligible Whistleblower, outside of these circumstances.

"Public Interest Disclosure" A disclosure made by an Eligible Whistleblower to a journalist or member of Parliament where the following circumstances are met:

- the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority; and
- at least 90 days has passed since the first disclosure was made; 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
- before making the disclosure, the Eligible 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 information disclosed is no greater than necessary to inform the recipient of the Disclosable Matter.

3. Application

This policy applies to:

- Employees (past and present)
- Volunteers
- College Board
- Contractors or their employees, who have a contract to provide goods and/or services to the College; and
- Relatives, dependents or spouses of any of the above

4. Legislative requirements

This policy complies with the requirements of relevant legislation, including the:

- Associations Incorporation Reform Act 2021 (Vic); and
- Corporations Act 2001 (Cth).

5. Procedures

5.1 Process for making a disclosure

Making an informal complaint

An Eligible Whistleblower should first seek to make a complaint informally.

This can be done verbally or in writing to the:

- Principal via email principal@scv.vic.edu.au or phone 0408 880 504; or
- Chair of the Board via email chair@scv.vic.edu.au

Seek advice

An Eligible Whistleblower may wish to seek advice from:

- someone trusted (e.g. College Leadership team, senior manager or board member within the College); or
- an independent legal practitioner.

Make a written disclosure

- An Eligible Whistleblower can make a formal disclosure to any Eligible Recipient.
- The College encourages disclosures to be made in writing to the Principal via email principal@scv.vic.edu.au
- If it is not appropriate for the disclosure to be made to the Principal the Eligible Whistleblower can make the disclosure in writing to the Chair of the Board via email chair@scv.vic.edu.au
- Alternatively, disclosures can be made in writing to whistleblower@scv.vic.edu.au

Tips for Eligible Whistleblowers making a disclosure

- Clearly state the information and facts on which you have based your concern.
- Only disclose the names and contact details of other people connected to the disclosure to the extent necessary for the Eligible Recipient to understand the nature of the concern.
- Provide your name and contact details. Alternatively, you can report anonymously.

Note: Where a disclosure is made to an Eligible Recipient who is not the Principal, then subject to the confidentiality protections set out below, it will generally be passed onto the Principal.

Information about making an anonymous disclosure

An Eligible Whistleblower can choose to remain anonymous. However, an anonymous disclosure may make it difficult to investigate the matter. The College therefore encourages Eligible Whistleblower to provide their name and contact information. If an Eligible Whistleblower wishes to remain anonymous, they should provide sufficient information to allow the matter to be properly investigated.

The College encourages the Eligible Whistleblower to provide an anonymous email address through which additional questions can be asked and information provided. It will also allow the College to report on the progress of the investigation.

Alternatively, the Eligible Whistleblower may adopt a false name for the purpose of their disclosure.

5.2 Process for handling and investigating a disclosure

Acknowledge receipt of the disclosure

The College will acknowledge receipt of the disclosure within 7-10 business days.

Assess the disclosure

The College will assess the disclosure to determine whether:

- it qualifies for Protection under this Policy; or
- it concerns a matter which should be managed in accordance with the school's related policies.

The College will then assess whether an investigation is required, and if so, how that investigation should be carried out.

If an investigation is required, the College will 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.

Undertake an investigation [if appropriate]

The College will endeavour to complete the investigation as soon as practicable.

The College will appoint an investigator, which may be internal or external to the College, depending on the nature of the allegation.

The investigator may undertake some or all the following tasks:

- seek further information and evidence from the Eligible Whistleblower either in writing or in person;
- seek information and evidence from other sources as appropriate, (e.g. conducting interviews or reviewing documentation);
- seek advice from external professionals;
- refer the matter to regulators or other authorities if necessary;
- draft a report to summarise their findings; or
- make recommendations for action.

Report on the outcome of the investigation

The investigator will prepare a report on the outcome of the investigation which will be provided to the Principal and the Board, unless they are the subject of the allegations. 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 Eligible Whistleblower.

The investigator will make recommendations to the Board as to whether and how the findings should be communicated back to the Eligible Whistleblower, to the school community, and/or to the authorities (if appropriate).

The investigator will also make recommendations to the Board as to the archiving of the report, bearing in mind the need for confidentiality.

If the disclosure is made to regulators or other authorities, their investigation process will normally take precedence to that of the school.

Keep the Eligible Whistleblower informed about the investigation

Where practicable, the College will keep the Eligible Whistleblower informed of the steps taken or to be taken (or if no action is to be taken, the reason for this).

Where practicable, whistleblowers will receive updates about:

- when the investigation process has begun;
- while the investigation is in progress; and
- after the investigation has been finalised.

Note: The frequency and timeframe of any updates may vary depending on the nature of the disclosure. The school will also have regard to confidentiality considerations when providing updates.

Ensuring the fair treatment of employees mentioned in the disclosure

The College will take reasonable steps to ensure the fair treatment of employees who are mentioned in a disclosure that qualifies for Protection. This includes:

- disclosures will be handled confidentially;
- each disclosure will be assessed and may be the subject of an investigation;
- the objective of an investigation is to determine whether there is enough evidence to substantiate or refute the matters reported;
- when an investigation needs to be undertaken, the process will be objective, fair and independent;
- employees about whom disclosures are made will generally be given an opportunity to respond to the relevant allegations made in the qualifying disclosure; and
- employees about whom disclosures are made may contact the entity's support services.

The school's employee assistance program (EAP) services will be available to employees affected by the disclosure, should they require that support.

Reviewing the outcome of an investigation

If an Eligible Whistleblower is not satisfied with the outcome of an investigation, then the Eligible Whistleblower may request that the school review the investigation into the disclosure.

The request must be made in writing to the Principal or Chair of the Board.

The College is not obliged to reopen an investigation and can conclude a review if it finds that the investigation was conducted properly in accordance with this policy, or new information is either not available or would not change the findings of the investigation.

5.3 Support for Eligible Whistleblowers and others involved in the process

The College will support the Eligible Whistleblower and other involved in the process by:

- Employees may seek support from the school's employee assistance program (EAP).
- An Eligible Whistleblower may have a support person present in any meetings with the investigator or other authorities.

5.4 Maintaining confidentiality of Eligible Whistleblowers

The College will protect the identity of an Eligible Whistleblower by:

- protecting Personal Information in documents using a false name when referring to the Eligible Whistleblower
- referring to the Eligible Whistleblower in a gender-neutral context;
- storing all paper and electronic documents and other materials relating to the disclosure securely;
- ensuring access to all information relating to the disclosure is limited to those directly involved in managing and investigating the disclosure;
- restricting the number of people who are directly involved in handling and investigating the disclosure;

- ensuring that communications and documents relating to the investigation of the disclosure are not sent to an email address or a printer which is accessible by other staff; and/or
- reminding each person who is involved in the managing and investigation of the disclosure about the confidentiality requirements, including that unauthorised disclosure of an Eligible Whistleblower's identity may be a criminal offence.

5.5 Protecting Eligible Whistleblowers from detriment

The College will protect Eligible Whistleblowers from detriment by:

- assessing the risk of detriment against the Eligible Whistleblower. For example:
 - the risk of their identity becoming known;
 - who they fear might cause detriment to them;
 - whether there are any existing conflicts or problems in the workplace; and
 - whether there have already been threats to cause detriment.
- considering the support services (including counselling services) which are available to the Eligible Whistleblower;
- developing and implementing strategies to prevent or contain the risk (including providing for anonymous disclosures);
- monitoring and reassessing the risk of detriment to the disclosure, which may increase or change as the investigation progresses;
- developing strategies to help the Eligible Whistleblower minimise and manage stress, time or performance impacts and other challenges resulting from the disclosure or its investigation;
- taking steps to ensure the Eligible Whistleblower is protected from risk of detriment, for example:
 - allowing the Eligible Whistleblower to perform their duties from another location;
 - reassigning the Eligible Whistleblower to another role at the same level;
 - making modifications to the Eligible Whistleblower's workplace or the way they perform their duties;
 - reassigning or relocating other staff involved in the Disclosable Matter
- ensuring that senior members of the College are aware of their responsibilities to maintain confidentiality, and to ensure fairness when managing the performance of, or taking other management action relating to, the Eligible Whistleblower;
- developing procedures for how the Eligible Whistleblower can lodge a complaint if they have suffered a detriment, and the actions the College may take in response to such complaints; and/or
- implementing interventions for protecting an Eligible Whistleblower if detriment has already occurred. For example, by:
 - investigating the detrimental conduct;
 - taking disciplinary action;
 - allowing the Eligible Whistleblower to take extended leave;
 - offering compensation or other remedies.

Note: An Eligible Whistleblower may seek independent legal advice if they believe they have suffered a detriment.

6. Protection for Eligible Whistleblowers

To qualify for Protection under this policy, disclosures must:

- be made by an Eligible Whistleblower;
- be made to an Eligible Recipient; and
- concern a Disclosable Matter.

- Eligible Whistleblowers who make a Public Interest Disclosure or an Emergency Disclosure may also qualify for Protection.
- Eligible Whistleblowers who make a disclosure to ASIC, APRA or a prescribed Commonwealth authority may also qualify for Protection

7. Roles and Responsibilities

The governing Board is responsible for:

- determining this policy and reviewing it on a biennial basis;
- responding to a disclosure when authorised to do so; and
- monitoring the number, nature and outcome of disclosures, whilst maintaining confidentiality.

The Principal is responsible for:

- overseeing a school culture where concerns and complaints are addressed appropriately and handled respectfully and fairly;
- ensuring that this policy is communicated to all staff and the school community;
- establishing processes to manage and investigate disclosures made under this policy;
- retaining a confidential register of disclosures made under this policy for purpose of reporting to the Board; and
- providing training for staff and retaining a record of that training.

Eligible Recipients are responsible for:

- understanding the school's whistleblower policies and procedures;
- undertaking training; and
- receiving and responding to a disclosure made under this policy.

Staff are responsible for:

- understanding the school's whistleblower policies and procedures; and
- undertaking training.

8. Communication

This policy is available:

- at staff induction
- on the SEDA College website.
- to Board members and all staff
- on MySEDA

9. Links to other SEDA College (Victoria) policies

This policy should read in conjunction with the following:

- Reportable Conduct Scheme Policy
- Child Safety & Wellbeing Policy
- Child Safety Responding & Reporting Obligations Policy
- Privacy Policy
- Conflict of Interest Policy
- Grievance Policy - Staff
- Staff Code of Conduct

10. Policy History

Version	Approval Date	Effective Date	Summary of Changes
V1	8/10/2019	8/10/2019	New Policy
V2	15/11/2021	15/11/2021	Updated format, headings and template.
V3	01/07/2022	01/07/2022	Updated format, template and references to new policies regarding Child Safety.
V4	19/10/2023	19/10/2023	Updated procedures to comply with current practice. Added table of contents and added chairperson's exclusive email as the recipient for disclosures.