



## Whistleblower Policy

### 1 Context

This Policy is an important tool for ensuring Cabra Dominican College can identify wrongdoing that may not be uncovered unless there is a safe and secure way to disclose wrongdoing. This Policy therefore provides a framework to ensure people who disclose wrongdoing can do so safely, securely and with confidence that they will be protected and supported.

Additionally, this Policy is intended to:

- support Cabra Dominican College's long-standing excellent reputation;
- reflect Cabra Dominican College's values, particularly 'Veritas'; and
- meet Cabra Dominican College's legal and regulatory obligations as a company limited by guarantee.

### 2 Policy Statement

Cabra Dominican College is committed to encouraging the reporting of any instances of suspected unethical, illegal, fraudulent or undesirable conduct related to Cabra's functions as an educational institution and provides protections and measures so that people who make a report can do so confidentially and without fear of intimidation, disadvantage or reprisal.

### 3 Scope

This Policy applies and provides protections to Eligible Whistleblowers as defined in the *Corporations Act 2001 (Cth)* and the *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (Cth)*.

To avoid doubt, Eligible Whistleblowers may include (but are not limited to):

- directors;
- executive leadership;
- staff;
- contractors (or employees of contractors);
- volunteers;
- students;
- parents;

and caregivers or a spouse, relative or dependent of the people referred to above.

An Eligible Whistleblower may, however, raise their concerns anonymously in keeping with the applicable legislation.

## 4 Definitions

*The Act* means *the Corporations Act 2001* (Cth).

*Cabra Dominican College* means Cabra Dominican College Limited and "*Cabra*" and "the *College*" have corresponding definitions.

*Investigating Officer* means the Principal or, where the Principal is the subject of a disclosure, the Chair of the College Board of Directors or such delegate as they may appoint in keeping with this Policy.

*Disclosable Matter* has the meaning given in Clause 5.1.

*Disclosure* means providing a report or information to the entities set out in Clause 6.2 in keeping with this Policy.

*Discloser* means a person who makes, or proposes to make, a Disclosure.

*Eligible Whistleblower* means directors of Cabra Dominican College, executive leadership, staff, contractors (or employees of contractors), volunteers, students, parents and caregivers of students, or a spouse, relative or dependent of one of the same.

*Protected Whistleblower* means an Eligible Whistleblower who has disclosed a Disclosable Matter and therefore qualifies for the protections under Part 9.4AAA of the Act.

## 5 Matters this Policy applies to

Disclosable Matters will qualify for legal protection under the Act. Disclosures that are not about a Disclosable Matter for the purposes of s 1317AA of the Act will not be protected under the Act and this Policy.

### 5.1 Disclosable Matters

A disclosure will concern a Disclosable Matter if an Eligible Whistleblower has reasonable grounds to suspect that the information being disclosed is about:

- misconduct (including fraud, negligence, default, breach of trust and breach of duty);
- an improper state of affairs or circumstances;
- behaviour that represents a danger to the public or the financial system;
- improper conduct related to creation, or maintenance, of a Child Safe Environment;
- interactions with children which may be a breach of Child Protection Practices;
- breach of any law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more; or
- a breach of the Act,

in relation to Cabra Dominican College.

Personal work-related grievances that do not involve a detriment caused to the Protected Whistleblower (or a threat of detriment) are not a Disclosable Matter. A personal work-related grievance is one that relates to the Protected Whistleblower's current or former employment that has implications for the Protected Whistleblower personally but does not have significant implications for Cabra Dominican College.

To avoid doubt, a personal work-related grievance may still qualify for protection under applicable laws and other relevant policies and procedures of Cabra Dominican College.

## 6 Making a Disclosure

### 6.1 How to Make a Disclosure

Disclosures can be made in person, by telephone, in writing by post, or by email to the email addresses set out below at clause 6.2. Disclosures can be made within business hours or outside of business hours. A person making a disclosure must, however, be aware that depending to whom a disclosure is made, disclosures made during term break may not be received until school term resumes. Where a disclosure is made during term break, the Investigating Officer will take steps to commence an investigation in keeping with Clause 10 as soon as practicable.

Disclosures can be made anonymously (in keeping with clause 8) or confidentially (in keeping with clause 9.1).

### 6.2 Who to make a Disclosure to

Cabra Dominican College encourages Disclosers to make their disclosure to the Eligible Recipients internal to the College in the first instance, which will enable Cabra Dominican College to identify and address wrongdoing as early as possible.

Notwithstanding this clause, a Discloser does not have to make an internal disclosure prior to making a disclosure directly to regulatory bodies (in keeping with clause 6.3).

Additionally, a disclosure to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the Whistleblower provisions of the Act or this Policy are protected.

#### 6.2.1 Eligible Recipients

A disclosure can be made using any of the following channels. Each of the following channels is an Eligible Recipient of Disclosable Matter:

- a Director of Cabra Dominican College;
- the Principal of Cabra Dominican College;
- the Business Manager of Cabra Dominican College;
- a Deputy Principal of Cabra Dominican College;
- the Director of Catholic Education South Australia; or
- an auditor of Cabra Dominican College.

To avoid doubt, each of the above people or groups of people can provide more information to the Discloser prior to the Discloser making a disclosure.

#### 6.2.2 Other designated bodies that can receive disclosures

Disclosures of a Disclosable Matter may also be protected when made to:

- ASIC;
- APRA;
- the Commissioner of Taxation; or

- another Commonwealth authority prescribed by law.

### 6.3 Public Interest Disclosures

A disclosure can be made to a journalist or parliamentarian in cases of public interest or emergency. Such disclosures may be protected but only under very specific criteria set out in s 1317AAD of the Act, including that the disclosure must have, at least 90 days prior, been made to ASIC, APRA or a prescribed body.

Cabra strongly recommends that a Discloser obtain independent legal advice before making a Public Interest disclosure to ensure that:

- the disclosure will attract protection under the relevant legislation and this Policy; and
- in making the disclosure, the Discloser will not breach other laws, regulations, codes of conduct, or be otherwise subject to disciplinary action where such disclosure does not attract protection.

## **7 False Reports**

A Protected Whistleblower will still qualify for protection for a disclosure even if their disclosure turns out to be incorrect. However, anyone who knowingly makes a false report of a Disclosable Matter, or who otherwise fails to act honestly with reasonable belief in respect of the report may be subject to disciplinary action, including dismissal.

## **8 Anonymity when reporting**

A Protected Whistleblower may choose to remain anonymous when disclosing a Disclosable Matter, over the course of the investigation and after the investigation is finalised. An anonymous Protected Whistleblower can refuse to answer questions that they feel could reveal their identity, and in so doing, they are not taken to have withdrawn their disclosure and Cabra Dominican College must still investigate the disclosure, subject to clause 10.

A Protected Whistleblower is encouraged to share their identity when making a disclosure, as it may make it easier for Cabra Dominican College to address the disclosure of a Disclosable Matter and for Cabra Dominican College to communicate with the Protected Whistleblower.

If a Protected Whistleblower does not share their identity, Cabra Dominican College will assess the disclosure in the same way as if the person had revealed their identity. An anonymous Protected Whistleblower may still elect to maintain two-way communication with Cabra, so that the Investigating Officer is able to ask follow-up questions or provide feedback.

## **9 Protections for Protected Whistleblowers**

### 9.1 Confidentiality

Disclosures from Protected Whistleblowers will be treated confidentially and sensitively.

#### 9.1.1. Protection of Identity

Once a report is received, the Eligible Recipient will make sure immediate steps are taken to protect the identity of the Protected Whistleblower. These steps may include:

- redacting personal information;
- using gender-neutral pronouns; and

- working with the Discloser to ensure that certain aspects of their disclosure which could identify them are redacted.

Information likely to identify a Protected Whistleblower may be shared if it is reasonably necessary for the purposes of an investigation or to ensure protection against detrimental treatment under clause 9.2 below. In this circumstance all reasonable steps will be taken to reduce the risk that the Protected Whistleblower will be identified and to the extent that an investigation can occur without identifying a Protected Whistleblower, Cabra will ensure that this occurs.

#### 9.1.2 Unlawful to identify Protected Whistleblowers

It is unlawful for a person to identify Protected Whistleblowers or disclose information that is likely to lead to their identification. A Protected Whistleblower's identity and position (or any other information which would be likely to identify them) will only be shared if:

- they consent to the information being shared;
- the disclosure is to a recipient permitted by law such as the Commissioner of Taxation or Australian Federal Police; or
- the disclosure is otherwise allowed or required by law (for example, disclosure by Cabra Dominican College to a legal practitioner for the purpose of obtaining legal advice relating to a matter arising under this policy).

#### 9.1.3 Breach of confidentiality

If a Protected Whistleblower considers that an Eligible Recipient, Investigating Officer or other employee of Cabra Dominican College has breached confidentiality, the Protected Whistleblower may complain to another Eligible Recipient or a regulator such as ASIC, APRA or the ATO for investigation.

### 9.2 Detrimental treatment

It is unlawful for a person to engage in conduct that causes (or threatens) detrimental treatment to a Protected Whistleblower in the belief or suspicion that a person has 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.

Detrimental treatment could include dismissal, demotion, harassment, damage to a person's reputation, discrimination, disciplinary action, bias, threats or other unfavourable treatment connected with making a disclosure as a Protected Whistleblower. To avoid doubt, detrimental treatment would not include administrative action that is reasonable for the purpose of protecting a Discloser from detriment (for example, a temporary reallocation of duties), or reasonable management action in relation to managing an employee's work performance.

Cabra Dominican College will seek to ensure that Protected Whistleblowers are not subjected to detrimental treatment as a result of making (or the intention to make) a disclosure under this policy. To protect Protected Whistleblowers from detrimental treatment, the Investigating Officer will:

- make an assessment of the risk of detriment to a Protected Whistleblower as soon as possible after receiving a disclosure of a Disclosable Matter;

- make sure that any Eligible Recipients or members of the Executive Leadership Team are aware of their responsibilities to:
  - maintain the confidentiality of a Protected Whistleblower (to the extent that it is appropriate to disclose their identity in keeping with this Policy and applicable laws); and
  - address the risks of detriment and ensure fairness when managing the performance of, or taking other management action relating to, a Protected Whistleblower;
- take practical action, as necessary, to protect a Protected Whistleblower from the risk of detriment and intervene if detriment has already occurred; and
- ensure the Protected Whistleblower is aware of support services (such as counselling services).

If a Protected Whistleblower believes that they have been subject to detrimental treatment, they should inform an Eligible Recipient immediately and, if they consider necessary, seek independent legal advice or contact regulatory bodies such as ASIC, APRA or the ATO.

### 9.3 Civil, Criminal and Administrative Liability

Protected Whistleblowers are protected from civil, criminal or administrative liability (including disciplinary action) for making reports of Disclosable Matters. No contractual right (including under an employment contract) can be exercised against a Protected Whistleblower to prevent or hinder them disclosing a Disclosable Matter.

Disclosures made by Protected Whistleblowers are protected from:

- civil liability (such as for a breach of an employment contract or a confidentiality agreement);
- criminal liability (such as a prosecution for unlawfully releasing information); and
- administrative liability (such as disciplinary action within Cabra Dominican College).

However, notwithstanding these protections, a Discloser must be aware that a disclosure does not provide immunity for any misconduct a Discloser has engaged in that is revealed in their disclosure.

### 9.4 Compensation and other remedies

Eligible Whistleblowers may be entitled to seek compensation and other remedies if Cabra Dominican College fails to protect the Eligible Whistleblower from detriment and the Eligible Whistleblower suffers loss or damage as a consequence.

## **10 When to investigate**

### 10.1 When to investigate

Once a report of a Disclosable Matter has been received from an Eligible Whistleblower, the Investigating Officer will determine whether the disclosure amounts to a Disclosable Matter.

If the Investigating Officer determines that the information disclosed does not amount to a Disclosable Matter because it:

- is baseless or unfounded;
- does not meet the threshold of a Disclosable Matter; or

- does not fall within the definition of a Disclosable Matter under this Policy,

the Eligible Whistleblower will be, if practicable, informed of that decision and no investigation will commence.

If the Investigating Officer determines that the disclosure amounts to a Disclosable Matter, an investigation will commence as soon as practicable and the Investigating Officer will take steps to advise the Board of Directors that an Investigation is to commence, or, where a disclosure relates to a Director or number of Directors, the Chair of the College Board of Directors. Such advice must be provided in keeping with the confidentiality obligations set out at Clause 9.

## 10.2 Investigation Procedure

If an investigation is conducted, it will:

- follow a fair process;
- be conducted in as timely a manner as the circumstances allow; and
- be independent of the person(s) about whom an allegation has been made.

The Investigating Officer may appoint a delegate to conduct an investigation on their behalf except where such an appointment would present an unacceptable breach of confidentiality of the Protected Whistleblower having regard to clause 9.1.

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.

Cabra Dominican College 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.

## 10.3 Informing the person against whom the allegation is made

Provided there are no restrictions or other reasonable bases for doing so, people against whom a disclosure has been made may be informed of the allegation and, where it is determined that a disclosure amounts to a Disclosable Matter, will have an opportunity to respond to any allegation.

The Principal or Chair of the College Board will decide whether the person named in the disclosure should be informed that a suspicion was raised and found to be baseless upon preliminary review. This decision will be based on a desire to preserve the integrity of a person so named, to enable workplace harmony to continue unfettered and to protect the Protected Whistleblower where the disclosure has been made in good faith.

Cabra Dominican College will take steps to ensure fair treatment of any person who is the subject of the Disclosable Matter report as well as the Protected Whistleblower.

## **11 Communications with the Protected Whistleblower**

Cabra Dominican College will ensure that, provided the claim was not submitted anonymously, the Protected Whistleblower will be kept informed of the outcomes of the investigation of their disclosure. Cabra Dominican College may require that a Protected Whistleblower give a written undertaking to maintain confidentiality prior to receiving outcomes of investigations of their disclosure.

Such communications will be subject to the considerations of:

- privacy of those against whom allegations are made; and

- considerations of confidentiality affecting Cabra Dominican College.

## 12 Further policy details

### 12.1 Policy Availability

This policy is made available on the Cabra Dominican College website and via Cabra's Teams channel. This is in keeping with the requirement of s 1317A(5)(f) of the Act.

### 12.2 Related Policies

This policy should be read in conjunction with Cabra Dominican College's other relevant policies including:

- Child Protection Policy;
- Purchasing Policy; and
- Student Grievance Policy.

### 12.3 Related Documents and References

- Code of Conduct for Staff Employed in Catholic Education South Australia.
- Protective practices for staff in their interactions with children and young people Guidelines for staff working or volunteering in education and care settings 2017 (2nd Edition, revised 2019).
- SACCS ICT Acceptable Use Policy 2018.

## 13 Revision Record

Document Title	Whistleblower Policy		
Document Type	Policy		
Document Date	May 2021		
Process Owner	Governance Committee		
Contact	Executive Officer		
Approval Authority	Board of Directors		
Review Date	May 2024		
Policy Distribution	Website ✓	MS Teams ✓	Other:
Revision History	<b>Edition Number</b>	<b>Date</b>	<b>Description of change</b>
	1	August 2020	
	2	May 2021	Formatting updates
	3	September 2021	Updated distribution data