



**MACKILLOP EDUCATION
WARANARA**
So much more than a school

NSW_EDU_WAR_26 MacKillop Education Waranara School Whistleblower Policy

NSW Education Standards Authority

NSW Registered and Accredited Individual Non-government Schools Manual

B.8 Safe and Supportive Environment

B8.2 School must provide for student welfare Section 47(1)(g)(i) of the *Education Act*

Definitions

MacKillop Family Services (MacKillop Education Waranara School) will be referred to, forthwith, as MacKillop Education Waranara.

NESA – the NSW Education Standards Authority

BFARC - Board Finance, Audit & Risk Committee

Parent(s)/Carer(s) - In this document the term parent is used to refer to a parent, parents, carer, carers or guardian.

Staff - means all employees, volunteers, support staff any other person employed the School or the Organisation.

The Act - *Australian Education Act 2013*

The Organisation– MacKillop Education

The School – MacKillop Education Waranara School

Whistleblower - A person who reports wrongdoing in accordance with this Policy.

Whistleblowing - The disclosure by (or for) a witness, of actual or suspected wrongdoing.

Wrongdoing - Conduct that includes but is not limited to:

- Breaching of legislation, regulations or local government by-laws or otherwise illegal action (including whistle-blower laws, corporation's law, theft, drug sale/use, violence or threatened violence or criminal damage against property).



- Is an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more.
- Is corrupt or an abuse of public trust or position as a public official.
- Is dishonest or fraudulent. Perverts the course of justice.
- Unreasonably endangers health and safety of the environment.
- Is maladministration (e.g. unjust, based on improper motives is unreasonable, oppressive or negligent).
- Is serious or substantial waste (including public money or public property).
- Is gross mismanagement or repeated breaches of administrative procedure.
- Has financial; or non-financial loss detrimental to the interests of the Organisation. Is an unethical breach of the Code of Conduct.
- Is serious improper conduct or an improper state of affairs.

Scope

This policy applies to all Waranara School leaders, teaching and support staff, including volunteer support workers.

Policy Statement

The School is committed to promoting a culture of transparency and integrity by maintaining an ethical work environment and an organisational culture that does not tolerate any act which constitutes 'Reportable Conduct' as defined in this policy.

The Policy gives expression to the School's commitment to the prevention, detection, reporting, investigation and rectification of issues of unethical and unlawful behaviour within the School in its various capacities including as:

- the block grant authority responsible for administering funding for capital expenditure for MacKillop received from the Australian Government in accordance with Section 83 of the Act
- NSW Government's Building Grants Assistance Scheme, which provides capital assistance to non-government schools in NSW
- the approved authority eligible to receive and administer Commonwealth recurrent funding for independent schools in NSW in accordance with Section 73 of the Act
- the approved system authority for independent schools in New South Wales in accordance with Section 40 of the *Education Act 1990 (NSW)* and Section 78(6) of the Act
- the non-government representative body for independent schools in New South Wales in accordance with Section 91 of the Act

Responsibilities

Whistleblower

Protection is available to Whistleblowers who disclose wrongdoing that is made with reasonable grounds to believe it is true. To ensure all employees are treated fairly and that resources are not wasted, protection is not available where the disclosure is:

- Trivial or vexatious matters with no substance. This will be treated in the same manner as a false report and may itself constitute wrongdoing.
- Unsubstantiated allegations which are found to have been made maliciously, or knowingly to be false. These will be viewed seriously and may be subject to disciplinary action that could include dismissal, termination of service or cessation of a service or client relationship.
- Where a report is made to avoid disciplinary action.

A Whistleblower must provide information to assist any inquiry/investigation of the wrongdoing disclosed. Making a disclosure may not protect a Whistleblower from the consequences flowing from involvement in the wrongdoing itself. A person's liability for their own conduct is not affected by their reporting of that conduct under this policy. However, active cooperation in the investigation, an admission and remorse may be taken into account when considering disciplinary or other action.

Even though a Whistleblower may be implicated in the wrongdoing they must not be subjected to any actual or threatened retaliatory action or victimisation in reprisal for making a report under this policy.

Whistleblower Protection Officer

If the Whistleblower agrees, a Whistleblower Protection Officer may be appointed who is an officer, senior manager or employee to provide protection to the Whistleblower according to this policy.

The Whistleblower Protection Officer must have a direct reporting line to an Executive from an area of the Organisation that is independent of line management in the area that is the subject of the report of wrongdoing. The Whistleblower Protection Officer will provide mentoring and other support deemed necessary by the Whistleblower Protection Officer.

The Whistleblower Protection Officer is responsible for keeping the Whistleblower informed of the progress and outcomes of the inquiry/investigation subject to considerations of privacy of those against whom the allegations have been made.

Whistleblower Governance Officer

A Whistleblower Governance Officer is a person named in Appendix 1 of this policy and is responsible for receiving whistleblower disclosures of wrongdoing and overseeing resolution. A Whistleblower Governance Officer must (after reasonable preliminary inquiry):

- If the Whistleblower agrees, appoint a Whistleblower Protection Officer to provide support to the Whistleblower.
- Notify the Protected Disclosure Coordinator of disclosure allegations.
- Be satisfied that each disclosure of wrongdoing they received was appropriately inquired into and/or investigated.
- Be satisfied that action taken in response to the inquiry/investigation is appropriate to the circumstances.
- Provide governance oversight over any inquiry/investigation into retaliatory action taken against the Whistleblower Alternatively, if the report contains allegations against the Organisation Executive or where the Whistleblower has a reasonable belief that the Whistleblower Governance Officer is not sufficiently independent a report may be made to the Chair of Board Finance, Audit & Risk Committee

Protected Disclosures Coordinator

The Protected Disclosures Coordinator receives particulars about all whistleblower events and performs the following functions:

- Arranges for an inquiry/investigation into the disclosures made by the Whistleblower.
- Ensures adequate governance agencies are notified about Whistleblower events where required.

The Principal will enter a record of the incident in Family Journey for trend analysis and to identify systemic issues requiring attention. The Protected Disclosures Coordinator is the Group Director – the MacKillop Institute and MacKillop Education.

Investigator

The Organisation will investigate all matters reported under this policy as soon as practicable after the matter has been reported. The investigator is appointed by the Protected Disclosures Coordinator and may be internal or external to the Organisation.

The internal investigator must have internal independence of line management of the area affected by the wrongdoing disclosure. The internal investigator may be the Company Secretary or the internal auditor or may where required be an external investigator.

The investigation will be conducted in an objective and fair manner, and as is reasonable and appropriate having regard to the nature of the disclosure and the circumstances. Where a report is submitted anonymously, the Organisation will conduct the investigation and its enquiries based on the information provided to it. However, anonymity can sometimes prevent the Organisation from

taking the issue further if the Organisation is not able to obtain further information from the source of the report.

The investigator may second the expertise of other officers in the Organisation to assist in the investigation and may seek the advice of internal or external experts as required.

Managers

All managers who receive disclosure about wrongdoing must notify the Principal and Group Director, The MacKillop Institute and Education (Whistleblower Governance Office) and provide particulars and maintain confidentiality.

Reporting a Disclosure

Whistleblowers should report their disclosure to the Principal and Group Director, The MacKillop Institute and Education (Whistleblower Governance Office).

Where an external Whistleblower is reluctant to report it to line management for fear of retribution, they can report their concerns to a higher level of management like the Group Director – the MacKillop Institute and Education. There may be a simple explanation that they had not considered. Where this is not appropriate, an alternative reporting mechanism is available.

Alternative reporting

Alternative reporting to normal channels is available where:

- The normal reporting channel is considered inappropriate in the circumstances.
- The Organisation line management was notified but failed to deal with it, or the person or organisation disclosing wrongdoing is concerned about possible retaliation. In any of these circumstances, a Whistleblower may provide the report of wrongdoing to a Whistleblower Governance Officer or to the Chair of BFARC.

Other Complaint Mechanisms

This policy is in addition to:

- Grievance procedures for employees, which is for all staff to raise any matters they may have in relation to their work or their work environment, other persons, or decisions affecting their employment. This policy does not replace other reporting structures such as those for dispute resolution, discrimination or matters relating to workplace bullying or harassment.
- The standard complaint mechanisms for clients or volunteers.
- Any exercising of rights under the terms of their contract by contractors and suppliers. An exception to this is where the issue is wrongdoing of a serious nature, yet the existing reporting system failed to process the issue or has processed it in a substantially inappropriate, grossly unfair or heavily biased manner.

Anonymous reporting

Anonymous reports of wrongdoing are accepted under this policy.

Anonymous reports have significant limitations that inhibit a proper and appropriate inquiry or investigation. These limitations include the inability to provide feedback on the outcome and/or to gather additional particulars to assist the inquiry/investigation.

Protection

Not all disclosures of serious wrongdoing are protected at law. To meet the organisation's philosophy of accepting tip-offs from anyone, the organisation adopts the principle of providing protection to people or organisations with a relationship with the organisation at least to the extent of protection of law.

Confidentiality

The Organisation will not disclose the person's or organisation's identity unless:

- It is necessary to further the investigation and the Whistleblower consents to the disclosure; and/or
- The disclosure is required or authorised by law.

When a report is investigated it may be necessary to reveal its substance to people such as the Organisation personnel, external persons involved in the investigation process and, in appropriate circumstances, law enforcement agencies.

It will be necessary to disclose the facts and the substance of a report to a person who is the subject of a report as it is essential for natural justice to prevail. Although confidentiality is maintained, in some circumstances the source of the reported issue may be obvious to the person who is the subject of a report.

The Organisation will take reasonable precautions to store any records relating to a report of wrongdoing securely and to restrict access to authorised persons only.

Unauthorised disclosure of information that could prejudice confidentiality and identify a Whistleblower will be regarded seriously and may result in disciplinary action and where applicable the Organisation will notify federal police.

Retaliation

The Organisation will not tolerate any retaliatory action or threats of retaliatory action against any person or organisation that has made or is believed to have made a report of wrongdoing, or against that person's colleagues, employer (if a contractor or supplier) or relatives.

For example, the person (or organisation, where appropriate) must not be disadvantaged or victimised for having made the report by:

- dismissal or termination of services or supply
- demotion

- any form of discrimination or harassment
- current or future bias
- threats of any of the above

Any such retaliatory action or victimisation in reprisal for a report being made under this policy will be treated as serious misconduct and will result in disciplinary action, which may include dismissal.

Investigation

All reports of alleged or suspected wrongdoing made under this policy to the Whistleblower Governance Officer will be properly assessed, and if appropriate, independently investigated, with the objective of gathering evidence relating to the claims made by the whistleblower. That evidence may substantiate or refute the claims made.

Investigations must be conducted in a fair and independent manner.

Disclosure Management

The Organisation recognises that individuals against whom a report is made must also be supported during the handling and investigation of the wrongdoing report. The Organisation takes reasonable steps to treat fairly the person who is the subject of a report, particularly during the assessment and investigation process in accordance with an established support protocol which may be extended to include appointing an independent senior officer in the Organisation to provide support.

Where a person is identified as being suspected of possible wrongdoing, but preliminary inquiries determines that the suspicion is baseless or unfounded and that no formal investigation is warranted, then the Whistleblower will be informed of this outcome and the matter laid to rest.

The Whistleblowing Governance Officer will decide whether or not the person named in the allegation 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, so as to enable workplace harmony to continue unfettered and to protect the Whistleblower where it is a bona fide disclosure. Where an investigation does not substantiate the report, the fact that the investigation has been carried out, the results of the investigation and the identity of the person who is the subject of the report must be handled confidentially. Generally, where an investigation is conducted and the investigator believes there may be a case for an individual to respond, the investigator must ensure that the person who is the subject of a disclosure:

- Is informed of the substance of the allegations.
- Is given a fair and reasonable opportunity to answer the allegations before the investigation is finalised.
- Has their response set out fairly in the investigator's report; and
- Is informed about the substance of any adverse conclusions in the investigator's report.

Where adverse conclusions are made in an investigator's report about an individual, that individual has the right to respond to those conclusions prior to any action being taken by the Organisation against them. The Organisation will give its full support to a person who is the subject of a report where the allegations contained in the report are clearly wrong.

Failure to Comply

Any breach of this Policy may result in disciplinary action that could result in severance from the Organisation.

References

Commonwealth Disability Legislation

- *Australian Education Act 2013*
- *Age Discrimination Act 2004*
- *Charities Act 2013*
- *Corporations Act 2001*
- *Disability (Access to Premises) Standards 2010*
- *Disability Discrimination Act 1992*
- *Disability Standards for Education 2005*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*

NSW Disability Legislation

- *Public Interest Disclosures Act 2022*
- *Disability Inclusion Act 2014*
- *NSW Anti-Discrimination Act 1977*
- *NSW Education Act 1990*

School Documents

- *NSW_EDU_WAR_15 MacKillop Education Waranara School Student Wellbeing Policy*
- *NSW_EDU_WAR_03 MacKillop Education Waranara School Work Health & Safety Policy*
- *NSW_EDU_WAR_06 MacKillop Education Waranara School Student Code of Conduct*
- *NSW_EDU_WAR_06 MacKillop Education Waranara School Staff Code of Conduct*
- *NSW_EDU_WAR_08 MacKillop Education Waranara School Complaints Grievances and Dispute Resolution Policy*

Approval

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