

SPOTSWOOD COLLEGE**PROTECTED DISCLOSURES POLICY****Rationale:**

The Board accepts that it has a responsibility to have in operation internal procedures for receiving and dealing with information about serious wrongdoing in or by the School. The Board also accepts that it must regularly educate and train its employees on the internal disclosure system.

Purpose:

The purpose of this policy is to provide information and guidance to employees of Spotswood College who wish to report serious wrongdoing within the school. The policy is issued in compliance with the Protected Disclosures Act 2000, the Protected Disclosures Amendment Act 2009 and the Education Act 1989.

Guidelines:**What is a Protected Disclosure**

1. A protected disclosure is a declaration made by an employee where they believe serious wrongdoing has occurred. Employees making disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal proceedings related to the disclosure.

Definition of Serious Wrongdoing

2. Serious wrongdoing includes any serious wrongdoing of any of the following type:
 - an unlawful, corrupt, or irregular use of funds or resources; or
 - an act, omission or course of conduct that constitutes a serious risk to public health or public safety or the environment; or
 - 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 fair trial; or
 - an act, omission or course of conduct that constitutes an offence; or
 - an act, omission or course of conduct by a public official that is oppressive, improperly discriminatory, or grossly negligent, or that constitutes gross mismanagement.

Conditions for Disclosure

3. Before making a disclosure the employee should be sure the following conditions are met:
 - the information is about serious wrongdoing in or by the School as listed above;
 - the employee believes on reasonable grounds the information to be true or likely to be true;
 - the employee wishes the wrongdoing to be investigated; and
 - the employee wishes the disclosure to be protected

Who can make a Disclosure

4. Any employee of the school can make a disclosure. For the purposes of this policy an employee includes:
 - current employees and Principal;
 - former employees and Principals; and
 - contractors supplying services to the school

Protection of employees making disclosures

5. An employee who makes a disclosure and who has acted in accordance with the procedure outlined in this policy:
 - may bring a personal grievance in respect of retaliatory action from their employers;
 - may access the anti-discrimination provisions of the Human Rights Act in respect of retaliatory action from their employers;
 - are not liable for any civil or criminal proceedings, or to a disciplinary hearing by reason of having made or referred to a disclosure; and
 - will, subject to paragraph 15 in the Procedure, have their disclosure treated with the utmost confidentiality.
6. The protections provided in this section will not be available to employees making allegations they know to be false or where they have acted in bad faith.

Procedure

7. Any employee of Spotswood College who wishes to make a protected disclosure should do so using the following procedure:

How to submit a disclosure

8. The employee should submit the disclosure in writing.

Information to be contained

9. The disclosure should contain detailed information including the following:
 - the nature of the serious wrongdoing;
 - the name or names of the people involved; and
 - surrounding facts including details relating to the time and/or place of the wrongdoing if known or relevant.

Where to send disclosures

10. A disclosure must be sent in writing to the Principal who has been nominated by the Board under the provision of Section 11 of the Protected Disclosures Act 2000 for this purpose.

OR

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 Board Chairperson.

Decision to investigate

11. On receipt of a disclosure, the Principal or Board Chairperson must within 20 working days examine seriously the allegations of wrongdoing made and decide whether a full investigation is warranted. If warranted a full investigation will be undertaken by the Principal or Board Chairperson or arranged by him/her quickly as practically possible, through an appropriate authority.

Protection of disclosing employee's name

12. All disclosures will be treated with the utmost confidence. When undertaking an investigation, and when writing the report, the principal or Board Chairperson will make every endeavour possible not to reveal information that can identify the disclosing person, unless the person consents in writing or if the person receiving the protected disclosure reasonably believes that disclosure of identifying information is essential:

- to ensure an effective investigation; or
- to prevent serious risk to public health or public safety or the environment
- to have regard to the principles of Natural Justice

Report of investigation

13. At the conclusion of the investigation the Principal or Chairperson of the Board of Trustees will prepare a report of the investigation with recommendations for action if appropriate.

Disclosure to an appropriate authority in certain circumstances

14. A disclosure may be made to an appropriate authority (including those listed below) if the employee making the disclosure has reasonable grounds to believe:

- The Board Chairperson is or may be involved in the wrongdoing;
- Immediate reference to another authority is justified by urgency or exceptional circumstances; or
- There has been no action or recommended action within 20 working days of the date of the disclosure

Appropriate Authorities include (but are not limited to)

- Commissioner of Police
- Controller and Auditor General
- Director of the Serious Fraud Office
- Inspector General of Intelligence and Security
- Ombudsman
- Parliamentary Commissioner for the Environment
- Police Complaints Authority
- Solicitor General
- State Service Commissioner
- The Head of any public sector organisation

Disclosure to Ministers and Ombudsman

15. A disclosure may be made to a Minister or an Ombudsman if the employee making the disclosure has made the same disclosure according to the internal procedures and clauses of this Policy and reasonably believes that the person or authority to whom the disclosure was made:

- has decided not to investigate; or
- has decided to investigate but not made progress with the investigation within reasonable time; or
- has investigated but has not taken or recommended any action; and the employee continues to believe on reasonable grounds that the information disclosed is true or is likely to be true.

Approval:

As part of its approval the Board requires the Principal to circulate this policy to all staff, and for a copy to be included in the School Policy Manual, copies of which shall be available to all staff. The School policy manual shall also be made available to students and parents at their request. The Board requires that the Principal arrange

for all new staff to be made familiar with this Policy and other policies approved by the Board.

When the Board approved this Policy it agreed that no variations of this Policy or amendments to it could be made, except with the approval of the Board.

Approved by the Board of Trustees on 27 June, 2011

Signed on behalf of, and with the authority of the Board

_____ on _____ (Date)
Board Chairperson

Due for Review: _____ (Date)

Reviewed Date: _____ Signed for B.O.T. _____

Principles of Natural Justice:

1. *nemo iudex in causa sua*: "nobody shall be a judge in his own cause", invalidating any judgment where there is a bias or conflict of interest or duty; and
2. *audi alteram partem*: "hear the other side", giving at least a fair opportunity to present one's case (which may, for example, require access to counsel).
3. Reasoned Decision: speaking or standing order

Natural justice includes the notion of procedural fairness and may incorporate the following guidelines:

- A Right to Advanced Warning. Contractual obligations depriving individuals of their Rights cannot be imposed retrospectively.
- A person accused of a crime, or at risk of some form of loss, should be given adequate notice about the proceedings (including any charges).
- A person making a decision should declare any personal interest they may have in the proceedings.
- A person who makes a decision should be unbiased and act in good faith. He or she therefore cannot be one of the parties in the case, or have an interest in the outcome. This is expressed in the Latin maxim, *nemo iudex in causa sua*: "no man is permitted to be judge in his own cause".
- Proceedings should be conducted so they are fair to all the parties - expressed in the Latin maxim *audi alteram partem*: "let the other side be heard".
- Each party to a proceeding is entitled to ask questions and contradict the evidence of the opposing party.
- A decision-maker should take into account relevant considerations and extenuating circumstances, and ignore irrelevant considerations.
- Justice should be seen to be done. If the community is satisfied that justice has been done, they will continue to place their faith in the courts.