

Whistleblower Policy

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Approved by	Board of Directors
Responsible Body	Board of Directors
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Superseded documents	None
Related Documents	Anti-Fraud Policy Code of Conduct Policy All Staff Handbook Staff Grievance Resolution Policy Complaints and Grievance Policy - Students

1. PURPOSE

- To encourage disclosures of misconduct or an inappropriate state of affairs within Ridley College and to protect whistleblowers from adverse consequences arising from the making of a disclosure.

2. DEFINITIONS

Definitions for the purpose of this policy:

- Officer is a member of the Board of Directors.
- Employee encompasses both Staff and Faculty.
- College Visitor is an independent person with authority to investigate matters for the Executive Team.
- Ridley College website at www.ridley.edu.au
- FRAC see Finance Risk and Audit Committee.
- Finance Risk and Audit Committee (FRAC) monitors financial audits and risk management for the College.
- Australian Prudential Regulatory Authority (APRA) is Australia's prudential regulator of banks, insurance companies and most superannuation funds.
- Australian Securities and Investment Commission (ASIC) is Australia's corporate, markets, and financial services regulator.
- The Board is the Board of Directors of Ridley College.
- Chair of the Board is the chair of the Board of Directors of Ridley College.
- The Executive team means any one of the Principal, Vice Principal or CFO.
- Grievance resolution is the process by which any grievance (complaint or dispute) is dealt with.
- Grievance (staff) is a statement of concern made by a staff member about the behaviour or action of another member or members of staff, which has or is likely to have an unreasonable negative impact on the ability of a staff member to undertake their duties.

Whistleblower Policy

- Student is a student of Ridley College. They may be a prospective, enrolled or former student.
- Whistleblower is a person who exposes or brings to the attention of management, a regulator, the government, or the public misconduct or illegal activity, especially from within an organisation.
- Whistleblowing is making a disclosure about misconduct or illegal activity, especially within an organisation.
- Working days are the normal business days of the College, comprising Monday to Friday and excluding weekends, public holidays and the office shutdown period over the Christmas/New Year period, which shutdown period is determined annually.

3. SCOPE

- This policy applies to Ridley College including all eligible whistleblowers and eligible recipients as set out in the policy.

4. POLICY STATEMENT

- Ridley College is committed to maintaining high standards in work practice in all its operations and to complying with all applicable laws and regulations. The College requires all employees, officers, and volunteers to conduct themselves with integrity and in line with the *Codes of Conduct Policy*. Ridley College seeks to promote a culture in which misconduct is challenged and addressed and encourages the reporting of misconduct or an inappropriate state of affairs. The College has established a process by which such disclosures may be made, as well as the means by which it will seek to protect whistleblowers from reprisal, victimisation, and any other detriment arising from making a disclosure. Ridley's Whistleblowing Policy aligns with and complements legislated protections. For the avoidance of doubt, individuals' statutory rights will not be affected in any way by this policy.

5. PRINCIPLES

5.1. Making disclosures about Ridley College under the policy

Who is able to make a disclosure under the policy?

5.1.1 A disclosure may be made under the policy only by eligible whistleblowers.

5.1.2. Eligible whistleblowers include the following, whether current or former:

- an employee, contractor, volunteer, or officer of the College;
- an individual or an employee of a person that supplies services or goods to the College;
- a relative or dependent of any of the above, or a dependent of the spouse of any of the above.

5.1.3. Students of the College are not eligible whistleblowers unless one of the categories in Section 5.1.2 also applies. Ridley students are encouraged to use the College's established procedures to make complaints or report concerning conduct, and to lodge formal grievances.

5.1.4. If a person is unsure about whether they are an eligible whistleblower they are encouraged to seek independent legal advice.

Whistleblower Policy

About what may a disclosure be made?

5.1.5 Disclosures may be received where an eligible whistleblower has reasonable grounds for believing that there has been misconduct or there is an improper state of affairs at Ridley College. 'Reasonable grounds' means that a reasonable person would suspect the information indicates misconduct or an improper state of affairs.

5.1.6 Misconduct or an improper state of affairs includes the following:

- fraud, negligence, breach of trust, and breach of duty;
- corrupt or illegal acts;
- misleading or deceptive conduct including practices or representations which amount to improper or misleading accounting or financial reporting practices;
- breaches the *Corporations Act* or of other financial sector laws enforced by the Australian Securities and Investment Commission (ASIC) or the Australian Prudential Regulatory Authority (APRA);
- an offence or contravention of Australia's corporations and financial services legislation, or any other Commonwealth or State offence that carries a penalty of at least twelve (12) months imprisonment;
- a danger to the public or the financial system.

5.1.7 A disclosure about misconduct or an improper state of affairs, as outlined in section 5.1.5 above, may also be reported in relation to a person or entity outside of but associated with the College (for example, a supplier or contractor) where the conduct could have legal or regulatory implications for the College.

5.1.8 Disclosures about personal work-related grievances should follow Ridley's grievance resolution processes and are only disclosable under this policy in certain circumstances, including:

- the work-related grievance relates to conduct set out under Sections 5.1.5 and 5.1.6;
- the work-related grievance involves experiencing detriment in response to reporting the grievance or to seeking legal advice or representation in response to the grievance;
- the work-related grievance also involves legal implications for the College or suggests systemic misconduct beyond the personal circumstances.

5.1.9 Examples of personal grievances that may not be reported under the policy (subject to Section 5.1.7) include:

- interpersonal conflict between employees;
- a grievance about a decision relating to engagement or the terms and conditions of engagement, transfer or promotion;
- a grievance about disciplinary action taken under Ridley's policy.

5.1.10 The *Corporations Act* also provides protection for public interest disclosures and emergency disclosures which meet specific requirements prescribed by the Act.

5.1.11 If a person is unsure about whether a matter constitutes an eligible disclosure under the whistleblower protections, they are encouraged to seek independent legal advice.

Whistleblower Policy

To whom may a disclosure be made?

5.1.12 A disclosure under the policy must be made to an eligible recipient.

5.1.13 Eligible recipients include:

- an officer of the College, that is, members of the Board of Directors;
- senior manager of the College, that is, the Principal, Vice Principal or CFO;
- the College Visitor, as a person authorised by the College to receive disclosures;
- the auditor or member of the audit team for the College;
- a legal practitioner, if seeking legal advice about whistleblower protections
- ASIC and APRA;
- parliamentarians (whether Commonwealth, State, or Territory) and journalists, but only for public interest or emergency disclosures that meet the legislated requirements;
- the Commissioner of Taxation in the case of disclosures about an entity's tax affairs.

How to make a disclosure

5.1.14 A disclosure may be made to any eligible recipient, as set out in section 5.1.12, though generally the disclosure should first be made to one of the Executive Team, unless the disclosure is about one of the Executive Team, in which case it should be made to the Chair of Board or the College Visitor.

5.1.15 A form to make disclosures to any of the recipients in the table above is available on the College website at: <https://www.ridley.edu.au/> (nb still to be created). Disclosures may also be made in writing and mailed to a recipient at the address below in an envelope marked 'Confidential'.

(Name of recipient)
Ridley College
170 The Avenue
Parkville Vic 3052

To make a disclosure to the auditor of the College, use the contact address available in *the Annual Report*.

5.1.16 The provision of a name and contact details may assist in the investigation of a disclosure. However, disclosures may be made anonymously without the provision of the whistleblower's name and position.

5.1.17 While the College does not require a whistleblower to have absolute proof of the reported misconduct or state of affairs to support an investigation, a disclosure should provide the reasons for the concern and make full disclosure of the relevant details and available supporting documentation. If a report is made it will be valued, even if it is not confirmed by subsequent investigation.

Making disclosures to ASIC and APRA

5.1.18 Disclosures to ASIC may be made online at <https://asic.gov.au/report-misconduct>. Alternatively disclosures can be made in writing to ASIC at:

Australian Securities and Investments Commission
GPO Box 9827
Brisbane QLD 4001
DX 423 Melbourne

5.1.19 Disclosures to APRA may be made by email (pid@apra.gov.au) or posted in an envelope marked 'Confidential' to:

Chief Risk Officer
APRA
GPO Box 9836
Sydney NSW 2001

5.2 Investigation of disclosures by Ridley

5.2.1 The College will take responsible and proportionate action in response to receiving a disclosure, and an investigation will be conducted as promptly and sensitively as possible.

5.2.2 A decision as to whether a preliminary investigation should be carried out will be made within two (2) weeks of the disclosure being received. Where this is not possible, the whistleblower will receive an explanation for the delay.

5.2.3 The CFO will investigate disclosures except for those that are about the CFO, in which case the Chair of the Board will investigate. The CFO may elect to refer the disclosure to the Chair of the Board for investigation if they consider it more appropriate to the nature of the disclosure.

5.2.4 If the nature of a disclosure is such that both the CFO and Chair of the Board are inappropriate persons to investigate the matter, then it may be referred to the College Visitor.

5.2.5 The recipient of a disclosure will direct it to the appropriate person for investigation after first confirming with the whistleblower whether they are willing for their identity to be disclosed.

5.2.6 The investigation will involve the following processes:

5.2.6.1 Principles of procedural fairness will apply to all investigations of disclosures. These include:

- Lack of bias;
- Evidence-based decision making, considering only relevant factors;
- A hearing as appropriate to the circumstances; and
- Inquiry into matters in dispute and verification of asserted facts.

5.2.6.2 The investigator will maintain the confidentiality of the whistleblower as far as possible and in accordance with their wishes. Care will be taken to avoid releasing information that may unintentionally reveal the identity of the whistleblower.

5.2.6.3 The whistleblower will be reminded of the legislated protections, and protections and support available through the College under this policy.

5.2.6.4 Except in the case of anonymous disclosures, the whistleblower will be asked to prepare a verbal or written statement, if they have not already done so.

5.2.6.5 The person/s against whom the disclosure is made will normally be informed at an early stage, provided with supporting evidence, and given an opportunity to respond. This will normally follow the verification of claims made in the disclosure, to the extent that this is possible. Depending on the nature and seriousness of the report, the person/s against whom the disclosure is made may be suspended or placed under alternative work arrangements while the investigation is undertaken.

5.2.6.6 The whistleblower is entitled to be accompanied by a support person of their choice throughout the procedure when making a report.

Whistleblower Policy

5.2.6.7 To avoid jeopardising an investigation, the whistleblower is required to keep confidential the fact that they have made a disclosure and its content (subject to any legal requirements).

5.2.6.8 The whistleblower will be informed of the outcome of the investigation within five (5) working days of its completion. The exact nature of any disciplinary action decided against any other person will not be disclosed to the whistleblower.

5.2.6.9 The investigator may seek independent legal advice to inform their handling of the investigation.

5.2.7 The investigation will be completed within ten (10) working days from its commencement except in serious or complicated cases where this may not be possible. In such cases, the whistleblower will be informed about the expected time frame.

5.2.8 Records will be kept of all disclosures and official written reports on the investigative process and outcomes. The records will be securely maintained by the CFO, with the exception of any disclosures about the CFO which will be securely maintained by the Chair of the Board.

5.2.9 Summary reports will be presented to the Board on disclosures received by the College and the outcomes of any investigations on an annual basis.

Possible outcomes of an investigation for whistleblowers

5.2.10 If the investigation reveals that the whistleblower is implicated in the misconduct or inappropriate state of affairs, disciplinary action may be taken against them. However, their role as a whistleblower will be taken into account in the determination of that action.

5.2.11 Disciplinary action may be taken against the whistleblower if it is demonstrated that the disclosure was based on false and unsubstantiated allegations and that it was made maliciously.

5.2.12 If a whistleblower is not satisfied with the outcome of the investigation, they may consider informing other eligible recipients as appropriate.

5.3 Protections and support available to whistleblowers

How the College will protect and support whistleblowers

5.3.1 Subject to compliance with legal reporting requirements, Ridley will protect the confidentiality of whistleblowers by not disclosing their identity without consent, by disclosing information contained in the disclosure only to the extent that it is required for the investigation of the disclosure, and by undertaking reasonable measures to prevent the identity of the whistleblower being revealed through the process of investigation.

5.3.2 The College prohibits the victimisation of a whistleblower including causing detriment and the issuing of threats against them (whether expressed or implied and whether conditional or unconditional). Detriment includes:

- dismissal of an employee;
- injury of an employee in his or her employment;
- alteration of an employee's position or duties to his or her disadvantage;
- discrimination between an employee and other employees of the same employer;
- harassment or intimidation of an employee;
- harm or injury to an employee, including psychological harm;
- damage to an employee's property;
- damage to an employee's reputation;
- damage to an employee's business or financial position;
- any other damage to an employee.

5.3.3 Where applicable, the College will make available to whistleblowers alternative work arrangements to support them during an investigation. These arrangements may include the option to work from home, where this is practicable, and alternative supervision arrangements.

5.3.4 The College will make personal counselling services available to whistleblowers.

5.3.5 Unless required by law, any disclosure of the whistleblower's identity without their consent is a breach of this policy and disciplinary action will be taken in response. It may also be an offence subject to penalties under the *Corporations Act*.

5.3.6 Any act of victimisation against a whistleblower is breach of this policy and disciplinary action will be taken in response. This may extend to situations where a person believes or suspects someone has made or could have made a disclosure. A breach of this kind may also be an offence subject to penalties under the *Corporations Act*.

Legislated protections for whistleblowers

5.3.7 Legislated protections available to whistleblowers include:

- the right to have their identity protected;
- the right to have information provided as part of the disclosure handled in accordance with the provisions of legislation;
- the right to be protected from civil, criminal or administrative liability (including disciplinary action) for making the disclosure; from contractual or other remedy on the basis of the disclosure; and from the admissibility of the information provided in evidence against the person;
- the right to be protected from victimisation, including threats and any form of detrimental treatment;
- the right to compensation and other remedies in accordance with the provisions of legislation (including a right not to be required to pay costs incurred by another person when litigation is commenced); and
- the right not to be required to disclose their identity before any court or tribunal.

5.3.8 The *Taxation Administration Act* also provides protection for disclosures of information about misconduct or an improper state of affairs, in relation to the tax affairs of an entity or an associate of an entity.

Fair treatment of employees mentioned in disclosures

5.3.9 The College will ensure the fair treatment of its employees who are mentioned in a disclosure made under this policy by:

- maintaining procedural fairness in the investigation of disclosures and following the process of investigation outlined in this policy;
- employees mentioned in disclosures will be protected from victimisation, including threats and any form of detrimental treatment; and
- offering supports available to whistleblowers under this policy.

Whistleblower Policy

5.4 Communication of the policy to officers and employees of the College

5.4.1 This policy is made known to all Ridley officers, employees, and volunteers through the workplace induction process. It is available on the College website and referenced in the *All Staff Manual*, which is available for the induction of staff.

6. RELATED DOCUMENTS AND LEGISLATION

- *Corporations Act 2001* (Cth)
- *Taxation Administration Act 1953* (Cth)

7. REFERENCES

- Australian Charities and Not-for-profits Commission Factsheet – *Whistleblower Protections* (<https://www.acnc.gov.au/tools/factsheets/whistleblower-protections>)
- Australian Securities and Investment Commission - *Whistleblower Rights and Protections* (<https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-rights-and-protections/>)
- Australian Taxation Office – *Tax Whistleblowers* (<https://www.ato.gov.au/General/Gen/Whistleblowers/>)