



# Seventh-day Adventist Schools (Victoria) Ltd

## Nunawading Christian College

Whistleblower Protection Policy



# Changes to whistleblower legislation

On 1 January 2020, new legislation came into effect that changes Victoria's integrity system. The changes support people who disclose improper or corrupt conduct and help agencies that investigate disclosures.

Under the new legislation:

- a 'protected disclosure' is now called a 'public interest disclosure'
- there is a lower threshold for making a public interest disclosure to the Independent Broad-based Anti-corruption Commission (IBAC)
- there is an expanded definition of 'improper conduct'
- There is also a new 'no wrong door' principle.

This principle means if a person discloses to the wrong entity, that entity can send it to the right entity and the person won't lose their protection, so long as:

- it's an entity that can receive disclosures **and**
- the person believes the entity they disclosed to was the right one

## How to find out more

Visit IBAC's website for more information about these changes or how to make a disclosure.

**Sourced at: <https://vpsc.vic.gov.au/changes-to-whistleblower-legislation/>**



## Introduction

Adventist Schools Victoria (ASV) believe in maintaining the highest standards of conduct and ethical behaviour. Our values and our culture drive us to support and promote a culture of integrity and ethical behaviour, corporate compliance and good corporate governance across all our activities.

The purpose of this policy is to establish a procedure to provide whistleblowers with protection, allowing students, parents, staff and others to come forward confidentially and anonymously, to the extent possible under existing laws, and ensure that they are not victimised or subjected to any form of detrimental action.

## Scope

This Policy applies to all employees of Seventh-day Adventist Schools (Victoria) Limited, "ASV".

## Reportable Conduct

A student, parent, staff member or other person involved with ASV, when observed by the reporting individual acting in good faith, should report conduct ("reportable conduct") which:

- is dishonest, fraudulent or corrupt, including bribery or other activity;
- is illegal (such as theft, drug sale or use, violence, harassment or intimidation, criminal damage to property or other breaches of state or federal law);
- is unethical or in breach of our policies (such as dishonestly altering company records or data, adopting questionable accounting practices or willfully breaching our Code of Conduct or other policies);
- is potentially damaging to ASV, our staff or a third party (such as unsafe work practices, environmental damage, health risks or abuse of our property or resources);
- amounts to an abuse of authority;
- includes child abuse;
- may cause financial loss to ASV or damage its reputation or be otherwise detrimental to its interests;
- involves any other kind of serious improper conduct;
- is a Statutory Report (see Annexure A to this Standard which outlines what a Statutory Report is).



## Reporting Procedure

A report may be made (in person or in writing) to any of the following people:

- The Executive Officers of the ASV Board of Directors, being the President, Secretary or Chief Financial Officer.
- The Conference's auditors or a member of an audit team.
- Any person authorised by ASV to receive reports. Currently the following people are authorised:

|   |              |                                 |
|---|--------------|---------------------------------|
| Lorraine Anthony<br>General Manager Human Resources | 03 9264 7774 | lorraine.anthony@asv.vic.edu.au |
|---|--------------|---------------------------------|

Reports may also be made by post to PO Box 215 Nunawading Victoria 3131 (marked to the attention of one of the authorised people referred to above).

You may make a report anonymously (although it may be difficult to address these reports effectively).

There are additional avenues for making some Statutory Reports, including to external parties. See Annexure A to this Policy for more information about this.

Investigation Procedures

It is ASV's intention that all reports will be treated seriously. We will consider the report promptly and decide how it will be handled.

### **Many reports will need to be investigated. Any investigation will be conducted in accordance with the following principles:**

- Full details of the allegations will be obtained;
- Person against whom allegations are made will be informed;
- Involvement of external parties such as the police as appropriate;
- Allegations will be fully investigated;
- it will be conducted as confidentially as possible;
- it will be conducted as soon as possible after the report has been made;
- it will be conducted in accordance with the requirements of procedural fairness;
- the person who made the report will be kept informed of the progress of the investigation;
- the investigation will often be undertaken by an Executive Officer or the General Manager Human Resources who will be fair and independent of the person who made the report and the person who is the subject of the reportable conduct. However, it may sometimes be appropriate for investigations to be carried out externally on behalf of ASV.



# Support and Protections When Making a Report

## **No victimisation or detrimental treatment**

ASV will not tolerate any actual or threatened victimisation or detrimental treatment of a person because they make a report under this Policy. This protection also applies if you are considering making or can make a report under this Policy.

## **Examples of victimisation or detrimental treatment include but are not limited to:**

- dismissal;
- injuring an employee in their employment;
- altering an employee's position or duties to their disadvantage;
- discriminating between an employee and other employees;
- harassing or intimidating a person;
- harming or injuring a person;
- damaging a person's property, reputation, business or financial position;
- any other damage to a person.

## **To ensure there is no actual or threatened victimisation or detrimental treatment, ASV:**

- will reiterate to any person against whom a report has been made that there is to be no victimisation or detrimental treatment in response to a report;
- may take disciplinary action up to and including dismissal against any person who victimises or treats a report maker detrimentally (or threatens to do so).

## **Confidentiality and your identity**

We recognise that maintaining appropriate confidentiality can be important in ensuring that you come forward and make a report. We will endeavour to keep a report as confidential as possible.

It is important that you are aware that in many instances disclosure of your identity to those handling the report may be required. For example, for the proper investigation of your report or if court proceedings result from your report.

We will ensure that all documentation and information relating to your report is kept secure and only accessible to authorised people.

If you make a Statutory Report there are a variety of additional arrangements about confidentiality. There is more information about this in Annexure A.



## **Support**

We understand that making a report, being the subject of a report or being involved in the investigation of a report, can be difficult. We are committed to supporting all parties involved in a report.

We encourage officers and employees involved in a report that they can make use of their counselling vouchers to seek confidential support from qualified third party counsellors.

Vexatious, false or misleading reports

If a vexatious, false or malicious report is made, we will view it very seriously. The protections in this policy will not extend to vexatious, false or malicious reports.

We may take appropriate action against a person who makes a vexatious, false or malicious report. This may include disciplinary action, up to and including dismissal.

## **General**

The Conference Secretary or General Manager Human Resources is available to help you with questions.

ASV will monitor and review this policy to assess its effectiveness in encouraging the reporting of reportable conduct, protection of persons making reports and investigation of reports.

This Policy may be varied by ASV from time to time.

Annexure A is not intended to go beyond legislation.



## Annexure A – Statutory Reports

### Why are Statutory Reports different?

There are some arrangements in the Corporations Act and the Tax Administration Act for reports to be made about certain types of conduct. This Annexure provides information about specific arrangements that apply to reports that are made under those Acts.

If you make a report we will determine if it is a Statutory Report. We will let you know

### if your report is a Statutory Report and which parts of this Standard apply:

|   | If my report is a Statutory Report...  | If my report is not a Statutory Report... |
|---|--|---|
| Does the main part of the Standard apply? | Yes, but if there are inconsistencies with Annexure A, the Annexure will prevail | Yes                                       |
| Does this Annexure A apply?               | Yes  | No  |

### What are Statutory Reports?

There are five types of reports that are characterised as Statutory Reports. They are:

1. a report about misconduct or an improper state of affairs or circumstances relating to ASV (including in relation to tax affairs). This would include where you have information that indicates ASV or an officer or employee of ASV has engaged in conduct that:
  - a. is in breach of the Corporations Act.
  - b. is an offence against a Commonwealth law that is punishable by imprisonment for 12 months or more.
  - c. represents a danger to the public or financial system.
2. a report to the Australian Charities and Not for profit Commission (ACNC), Australian Securities and Investment Commission (ASIC), the Australian Prudential Regulation



Authority (APRA), the Commissioner of Taxation or a prescribed Commonwealth authority about the matters outlined in one above;

3. a report to a journalist or member of Parliament in the following circumstances:
  - a. you have made a report to ASIC, APRA or a prescribed Commonwealth authority under two above;
  - b. at least 90 days has passed since you made the report;
  - c. you do not have reasonable grounds to believe that action is being, or has been, taken to address the matters to which the report related;
  - d. you have reasonable grounds to believe that making a further report would be in the public interest;
  - e. after the 90 days have passed, you gave the body you made the original report to (ie, ASIC, APRA or the Commonwealth authority) written notification that is sufficient to identify your original report and states that you intend to make a 'public interest disclosure' report to a journalist or member of Parliament;
  - f. you make a 'public interest disclosure' report to a journalist or member of Parliament; and
  - g. the extent of the information disclosed in the report is no greater than is necessary to inform the journalist or member of Parliament of the:
    - i. misconduct or an improper state of affairs or circumstances relating ASV (including in relation to tax affairs); or
    - ii. ASV or an officer or employee of ASV has engaged in conduct that is in breach of the Corporations Act, is an offence against a Commonwealth law that is punishable by imprisonment for 12 months or more or represents a danger to the public or financial system.
4. a report to a journalist or member of Parliament in the following circumstances:
  - a. you have made a report to ACNC, ASIC, APRA or a prescribed Commonwealth authority under two above;
  - b. you have reasonable grounds to believe that the report concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment;
  - c. you gave the body you made the original report to (ie, ASIC, APRA or the Commonwealth authority) written notification that is sufficient to identify your original report and states that you intend to make an 'emergency disclosure' report; and
  - d. the extent of the information disclosed in the report to the journalist or member of Parliament is no greater than is necessary to inform them of the substantial and imminent danger.
5. if you disclose information to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the provisions about making a report in the Corporations Act or the Tax Administration Act.

To make a Statutory Report (except under five above) you must have reasonable grounds to suspect the alleged conduct.





It is important to be aware that a Statutory Report does not include a personal work-related grievance[1]. In some instances, personal work related grievances will include:

- an interpersonal conflict;
- a decision about your engagement, transfer or promotion;
- a decision about your terms and conditions of engagement;
- a decision to suspend, terminate or discipline you.

### **What are the confidentiality arrangements for a Statutory Report?**

You are encouraged to consent to your identity being disclosed. Being able to share your identity will assist in an efficient consideration of the matters the subject of your Statutory Report.

That said, unless you consent, your identity or any information that may lead to the disclosure of your identity must not be disclosed by the recipient of a Statutory Report to any other person except:

- it will still be lawful to disclose your identity;
- to ACNC, ASIC, APRA, the Commissioner of Taxation or the Australian Federal Police;
- to a legal practitioner for the purposes of obtaining legal advice or legal representation;
- as otherwise permitted by law;
- we may still disclose information reasonably necessary for investigating a Statutory Report, even if that disclosure may lead to your identification, provided we take all reasonable steps to reduce the risk you will be identified.

You can make a Statutory Report anonymously (although it may be difficult to address these reports effectively).

Are there any additional protections for Statutory Reports?

### **No action against you**

If you make a Statutory Report:

- you will not be subject to any civil, criminal or administrative liability (including disciplinary action) for making the report;
- no contractual action can be taken against you on the basis of the report you make;
- in some instances the information you provide is not admissible in proceedings against you (except about any false information you provide).

Of course, you can still be subject to civil, criminal or administrative liability for conduct that is revealed by your report.



## No victimisation or detrimental treatment

It is unlawful for a person to engage in conduct against you that causes or will cause a detriment:

- in circumstances where the person believes or suspects that you or a third person made, may have made, proposes to make or could make a Statutory Report; and
- if the belief held by that person is the reason or part of the reason for their conduct.

Threats of detriments will also be unlawful if:

- the person making the threat intended to cause fear that a detriment would be carried out or was reckless as to whether you would fear the threatened detriment being carried out; and
- the threat was made because you made or may make a qualifying report.

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[1] Associate is defined in the Corporations Act

[2] Personal work-related grievance is defined in the Corporations Act

## Document History

This policy is to be ratified by the Board of Directors on 31 July 2019.

The life cycle of this policy is three years. It will be reviewed in June 2022.