



# ST ALOYSIUS' COLLEGE

A Jesuit School for Boys • Founded 1879

## WHISTLEBLOWER POLICY

*St Aloysius' College (the College) is a Catholic, Jesuit day school for boys from Year 3 to Year 12. Situated in the shadow of the Sydney Harbour Bridge, it has an enrolment of over 1200 students. The College is conducted by the Society of Jesus and is part of a worldwide network of Jesuit primary and secondary schools and universities.*

*Established in 1879, St Aloysius' College is committed to an education for each student that proposes Christ as the model for human life; pursues excellence in teaching and learning; and promotes lifelong learning and spiritual growth*

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### Definitions

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| <b>College Personnel</b>  | includes all those who work for the College in a paid or unpaid capacity – engaged in full time, part-time or casual: teaching, support and operational staff, Vocal and Instrumental Tutors (VITs), coaches, contractors, third party service providers, consultants and all volunteers.                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Code of Conduct</b>    | the Province-approved document which sets out what personal and professional standards mean for the Province, the Province's primary obligations and the associated behaviour that are expected of all Jesuits, Partners in Mission and Contractors, and how to report inappropriate behaviour.                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Contractor</b>         | means a person who is not an employee but is engaged under an independent service contract to complete a specific job or project within a specified time frame for an agreed price. The safeguarding <i>Code of Conduct</i> applies to Contractors who are permitted to be unsupervised while on ministry grounds eg engaged using a tender process and formal induction.                                                                                                                                                                                                                                                                                                  |
| <b>Disclosure</b>         | notification of an allegation of wrongdoing eg breach of the safeguarding <i>Code of Conduct</i> , corrupt conduct, fraud, maladministration or serious and substantial waste.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Eligible Recipient</b> | means the following: <ol style="list-style-type: none"><li>a member of the College Executive or a related body corporate;</li><li>an auditor, or a member of an audit team conducting an audit, of the College or a related body corporate;</li><li>an actuary of the College or a related body corporate; and</li><li>a person authorised by the College to receive disclosures that may qualify for protection under Part 9.4AAA of the <i>Corporations Act 2001(Cth)</i> or Part IVD of the <i>Income Tax Assessment Act 1953 (Cth)</i>, including a member of the Province Protected Disclosures Panel and any person named in Clause 4 of these procedures.</li></ol> |



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| <b>Jesuit</b>              | means any Priest or Brother member of the Society of Jesus or someone in formation for those roles (eg a novice or a scholastic).                                                                                                                                                                                                                  |
| <b>Partners in Mission</b> | means a lay person involved in the College.                                                                                                                                                                                                                                                                                                        |
| <b>Provincial</b>          | the member of the Society of Jesus from time to time holding the office of Major Superior of the Province or, in the case of absence or indisposition, the acting Provincial or, in the event of the office of the Provincial being vacant at any time, the member of the Society of Jesus for the time being performing the duties of Provincial. |
| <b>Volunteer</b>           | means a person who is involved with the College, generally without payment or financial reward. The safeguarding <i>Code of Conduct</i> applies equally to volunteers as it does to Jesuits and Partners in Mission.                                                                                                                               |

## Purpose

The purpose of this policy is to address injustice, in line with the College's safeguarding *Code of Conduct* (Australian Province of the Society of Jesus), the St Aloysius' College Risk Management and Governance Framework and to ensure that any individuals of St Aloysius' College (the College) who disclose wrongdoing in relation to the College can do so safely, securely and with confidence that they will be protected and supported.

The aim of this policy is to help individuals feel confident about raising concerns internally, by offering a reporting and investigative mechanism that is objective, confidential, independent and protects individuals from reprisal or disadvantage.

Under this policy:

- Individuals are encouraged to report concerns, whether openly or, if preferred, anonymously.
- If an individual reports concerns, he or she will be afforded confidentiality unless indicated (or the law requires) otherwise.
- Concerns will be properly investigated with a view to establishing the truth and correcting any wrongdoing where possible.
- Individuals will be advised of the outcome of the investigation and any action taken as much as practicable.
- Individuals will not be victimised or adversely affected because of the action in reporting concerns provided of course, that there is a basis for the concerns, and that the individual has acted in good faith and without malicious intent.

This policy will be published on the St Aloysius' College website, on its portal – *Manresa* and made available to College Board members and College Personnel.

The College Board Company Secretary has been appointed as a contact point where College Personnel can seek accurate and confidential advice or information about the following, without making a disclosure:

- How this *Whistleblower Policy* works.
- What this *Whistleblower Policy* covers.
- How a disclosure might be handled.



## Related Policies and Procedures

The following policies of the College must be considered in relation to this document:

- *Code of Conduct* (Australian Province of the Society of Jesus)
- Complaints or allegations of staff misconduct that do not meet the criteria of a whistleblowing disclosure will be addressed in accordance with the College's *Complaints Guidelines*.
- Disclosures about reportable conduct will be addressed in accordance with the College's safeguarding *Code of Conduct* and *Child Protection Policy*.
- Disclosures regarding a grievance between staff members about work matters, including work relationships and decisions made by other staff members which impact on their work, may be addressed in accordance with the College's *Grievance Procedure Guidelines*.
- Unlawful discrimination, harassment or bullying complaints may be addressed in accordance with the College's *Statement on Harassment and Bullying* and *Statement on Unlawful Discrimination and Harassment*.
- Complaints of unauthorised data disclosures may be addressed in accordance with the College's *Statement on Privacy*.

## Related Legislation

The following Legislation must be considered in relation to this document:

- *Corporations Act 2001 (Cth) (Corporations Act)*

### 1. Key Requirements – Disclosable Matters

- All Jesuits and Partners in Mission involved in the College have a responsibility to help detect, prevent and report instances of suspicious activity or wrongdoing, referred to as a Disclosable Matter.
- Under the *Corporations Act* to be eligible for whistleblower protection, the individual must be an 'eligible whistleblower', the report must be made to an Eligible Recipient or to a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of this policy and the information reported must be a disclosable matter.
- It is expected that Jesuits and Partners in Mission involved in the College who become aware of actual or suspect on reasonable grounds, a potential disclosable matter, will make a report under this policy or under other applicable policies.

#### 1.1 Who is an Eligible Whistleblower?

An eligible whistleblower is an individual who is or has been any of the following, in relation to the College:

- A College Board member.
- College Personnel.
- A person who supplies goods or services (paid or unpaid).
- An employee of a person who supplies goods or services (paid or unpaid).
- An individual who is an associate of the College (as defined in the *Corporations Act*).
- A relative or dependent (or dependents of a spouse) of any individual described above.



## 1.2 What is a Qualifying Disclosable Matter?

An eligible whistleblower may make a report under this policy if they have reasonable grounds to suspect that a Director, member of the College Executive, College Personnel, contractor, supplier, tenderer or other person who has business dealings with the College has engaged in conduct which is “improper”, including:

- Is dishonest, fraudulent or corrupt, including bribery.
- Is illegal activity (such as theft, violence, harassment or intimidation, criminal damage to property or other breaches of state or federal law).
- Is unethical or in breach of Province or College policies (such as dishonestly altering records or data, adopting questionable accounting practices or wilfully breaching the College’s safeguarding *Code of Conduct* or other policies or procedures and significant regulatory and legal obligations).
- Is potentially damaging to the College, College Personnel or a third party, such as unsafe work practices, environmental damage, health risks or abuse of property or resources.
- Amounts to an abuse of authority.
- May cause financial loss to the College or damage its reputation or be otherwise detrimental to its interests.
- Involves harassment, discrimination, victimisation or bullying, other than personal work-related grievances as defined in the *Corporations Act*.

**Personal work-related grievances** do not usually qualify for protection. A personal work-related grievance is normally dealt with using the College’s *Grievance Procedure Guidelines*. Examples of personal work-related grievances that do not qualify for protection (unless the next paragraph applies) include:

- An interpersonal conflict between the discloser and College Personnel.
- A decision relating to the engagement, transfer or promotion of the discloser.
- A decision relating to the terms and conditions of engagement of the discloser.
- A decision to suspend or terminate the engagement of the discloser, or otherwise discipline the discloser.

**Personal work-related grievances** may still qualify for protection if:

- it includes information about misconduct, or information about misconduct includes or is accompanied by a personal work-related grievance (mixed report);
- the entity has breached employment or other laws punishable by imprisonment for a period of 12 months or more, engaged in conduct that represents a danger to the public, or the disclosure relates to information that suggests misconduct beyond the discloser’s personal circumstances;
- the discloser suffers from or is threatened with detriment for making a disclosure; or
- the discloser seeks legal advice or legal representation about the operation of the whistleblower protections under the *Corporations Act*.



### 1.3 Reasonable Grounds to Suspect

Whether a discloser would have 'reasonable grounds to suspect' is based on the reasonableness of the discloser's suspicion, having regard to all the circumstances when considered objectively.

If a disclosure is made without 'reasonable grounds to suspect', the disclosure will not be a qualifying disclosure and the discloser will not have the protections provided for under this policy and the *Corporations Act*. Any deliberate false reporting will be regarded very seriously.

A discloser can still qualify for protection even if their disclosure turns out to be incorrect.

## 2. Who Can I Make a Report to?

To be eligible for whistleblower protection, the report must be made to an Eligible Recipient as defined in this policy.

The Province through its entity, The Society of Jesus in Australia (SOJA), provides a number of services to the College to assist in its governance, including an "arms-length" Disclosures Panel for the purpose of investigating any Disclosable Matter. Consequently, the College has several channels for making a report if an eligible whistleblower becomes aware of any issue or behaviour which they consider to be a Disclosable Matter:

- The College encourages disclosure to an Eligible Recipient in writing, preferably to the Principal, via email at [principal@staloyisus.nsw.edu.au](mailto:principal@staloyisus.nsw.edu.au)
- If it is not appropriate for the disclosure to be made to the Principal, the eligible whistleblower is encouraged to make the disclosure, in writing, to the Chair of the College Board, via email at [companysecretary@staloyisus.nsw.edu.au](mailto:companysecretary@staloyisus.nsw.edu.au).
- At any time, the eligible whistleblower can make a report directly to the Province through the Protected Disclosure Officers (contact details below) who, with the Provincial, form the Protected Disclosures Panel.

Where a disclosure is made to an Eligible Recipient locally, such as the Principal or the Chair of the College Board, then subject to the confidentiality protections set out at Section 4 below, it will be notified to the Province's Disclosure Panel and dealt with in accordance with Section 3 below.

### 2.1 Protected Disclosure Officers Contact details

- Province Director of Professional Standards  
Phone: 03 9810 7300  
Email: [professionalstandards@sjasl.org.au](mailto:professionalstandards@sjasl.org.au)
- Province Socius  
Phone: 03 9810 7300  
Email: [socius@sjasl.org.au](mailto:socius@sjasl.org.au)
- Province Manager of Human Resources  
Phone: 03 9810 7300  
Email: [humanresources@sjasl.org.au](mailto:humanresources@sjasl.org.au)

If the disclosure concerns conduct of the Provincial, the Superior General of the Society of Jesus [Reports to be posted to Borgo S. Spirito 4, 00193, Roma Italy, in two envelopes, the interior one being marked "SOLI", if sent by a Jesuit] shall be an "Eligible Recipient".

Reports may also be posted to 130 Power Street, Hawthorn, Vic, 3122 (marked to the attention of one of the Protected Disclosure Officers).



## 2.2 Anonymous Disclosures

A disclosure can be made anonymously and still be protected under the *Corporations Act*. A discloser can choose to remain anonymous while making a disclosure, over the course of the investigation and after the investigation is finalised.

However, this may make it difficult to investigate the reported matter. The College therefore encourages disclosers to provide their names.

If a discloser wishes to disclose anonymously, the discloser should provide sufficient information to allow the matter to be properly investigated. The College encourages the discloser to provide an anonymous email address through which additional questions can be asked and information provided. It will also allow the College to report the progress of the investigation to the discloser, as appropriate.

## 2.3 External/Public Interest and Emergency Disclosures

Disclosures may also qualify for protection if they are made to ASIC, APRA or a prescribed Commonwealth authority, or if an eligible whistleblower makes a disclosure to a legal practitioner to obtain advice about the operation of the whistleblower provisions.

Eligible whistleblowers who make a 'public interest disclosure' or an 'emergency disclosure' also qualify for protection.

## 2.4 Public Interest Disclosures

An eligible whistleblower can disclose to a member of Parliament or a journalist only if the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority, and:

- at least 90 days has passed since the eligible whistleblower made the first disclosure to ASIC, APRA or a prescribed Commonwealth authority; and
- the eligible whistleblower does not have reasonable grounds to believe action is being, or has been, taken to address the information in the disclosure; and
- the eligible whistleblower has reasonable grounds to believe that making a further disclosure of the information would be in the public interest; and
- before making the disclosure, the eligible whistleblower gives written notice to the original recipient that includes sufficient information to identify the previous disclosure and states that they intend to make a public interest disclosure; and
- the extent of information disclosed is no greater than necessary to inform the recipient of the disclosable matter.



## 2.5 Emergency Disclosure

An eligible whistleblower can disclose to a member of Parliament or a journalist only if the information has been previously disclosed to ASIC, APRA or a prescribed Commonwealth authority, and:

- the eligible whistleblower has reasonable grounds to believe that the information concerns a substantial and imminent danger to the health or safety of one or more persons or to the natural environment; and
- before making the disclosure, the eligible whistleblower gives written notice to the original recipient that includes sufficient information to identify the previous disclosure and states that they intend to make an emergency disclosure; and
- the disclosure of information is no greater than necessary to inform the recipient of the substantial and imminent danger.
- An eligible whistleblower may wish to consider obtaining independent legal advice before making a public interest or emergency disclosure.

## 3. Investigation of a Disclosable Matter

For all matters reported, an investigation will be undertaken as soon as practicable by either the Principal or the Chair of the College Board and/or the Province Disclosures Panel. Whoever undertakes the investigation may, with the whistleblower's consent, appoint a person or persons to assist in the investigation of the report. Where appropriate, the Principal or the Chair of the College Board or the Province Disclosures Panel will provide feedback to the whistleblower regarding the investigation's progress and/or outcome (subject to considerations of the privacy of those against whom allegations are made).

On receipt of each disclosure, the Principal or the Chair of the College Board and/or the Province Disclosures Panel will determine whether the disclosure is eligible for protection and a formal, in-depth investigation is required.

The investigation will be conducted in an objective and fair manner, and otherwise as is reasonable and appropriate having regard to the rights of both the discloser and the person against whom the allegations are made and the nature of the disclosable matter and the circumstances.

While the investigation process and enquiries adopted will be determined by the nature and substance of the report, in general, as soon as practicable upon receipt of the report, if the report is not anonymous, the Principal or the Chair of the College Board or one of the Province's Protected Disclosure Officers will contact the whistleblower to discuss the investigation process including who may be contacted and such other matters as are relevant to the investigation.

Depending on the nature of the disclosable matter reported directly to the College, the Province may undertake the investigation on behalf of the College. However, the confidentiality of the discloser will be protected in accordance with Section 4 of this policy.

At the conclusion of an investigation, a report will be prepared and submitted to the College Board. Where appropriate, the discloser will be provided with a final update that sets out the findings and outcomes arising from the investigation.



### 3.1 Fair treatment of College Personnel mentioned in Disclosures

The College, or the Province Disclosure Panel will take steps to ensure the fair treatment of employees who are mentioned in a disclosure that qualifies for protection:

- disclosures will be handled confidentially, when it is practical and appropriate in the circumstances;
- when an investigation needs to be undertaken, the process will be objective and fair; and
- employees about whom disclosures are made will generally be given an opportunity to respond to the relevant allegations made in the qualifying disclosure.

The College's employee assistance program (EAP) services will be available to employees affected by the disclosure, should they require that support.

The College or the Province Disclosure Panel will document the steps of the investigation and the findings from the investigation and report those findings to those responsible in the Province including the College. The method for documenting and reporting the findings will depend on the nature of the disclosure. There may be circumstances where it may not be appropriate to provide details of the outcome to the discloser.

## 4. Confidentiality

Under the *Corporations Act*, the identity of the discloser of a qualifying disclosure (assuming the disclosure qualifies for protection – eg the discloser has reasonable grounds to suspect it is true and it is not solely a personal work-related grievance) and information which is likely to lead to the identification of the discloser must be kept confidential.

Exceptions to this are disclosures to ASIC, the Australian Federal Police, a legal practitioner for the purpose of obtaining advice about the application of the whistleblower protections or made with the consent of the discloser.

If a disclosure involves an issue which the College is required to report, the College may not be able to maintain the confidentiality of the identity of the disclosure. This disclosure could include State Police, the State Office of the Children's Guardian (or equivalent), State Education Standards Authority or the State Department of Education.

It is also permissible to disclose information which could lead to the identification of the discloser if the disclosure is reasonably necessary for the purpose of investigating the matter, if all reasonable steps are taken to reduce the risk that the discloser will be identified as a result of the information being disclosed.

Breach of these confidentiality protections regarding the discloser's identity and information likely to lead to the identification of the discloser is a criminal offence and may be the subject of criminal, civil and disciplinary proceedings. If you are subjected to a breach of confidentiality relating to a report made under this Policy, you should inform an Eligible Recipient, including the College Executive within the College immediately. You may also lodge a complaint with a regulator, such as ASIC, APRA or the ATO.

Confidentiality will be observed in relation to handling and storing records.



## 5. Protections Available

The College and the Province are committed to ensuring confidentiality in respect of all matters raised under this policy, and that those who make a report are treated fairly and do not suffer detriment.

### 5.1 Protection against Detrimental Conduct

Detrimental treatment includes dismissal, demotion, harassment, discrimination, disciplinary action, bias, threats or other unfavourable treatment connected with making a report.

If you are subjected to detrimental treatment because of making a report under this policy, you should inform an Eligible Recipient, including the College Executive within the College immediately.

Remedies for being subjected to detriment could include:

- Compensation.
- Injunctions and apologies.
- Reinstatement of a person whose employment is terminated.
- Exemplary damages.

### 5.2 Protection from Civil, Criminal or Administrative Liability

Eligible whistleblowers making a qualifying disclosure cannot be subject to any civil, criminal or administrative liability (including disciplinary action) for making the disclosure. No contractual or other remedy or right may be enforced or exercised against the person on the basis of the disclosure.

Whistleblowers who make some types of qualifying disclosures also provided immunities to ensure that information they disclose is not admissible in evidence against them in criminal proceedings or in proceedings for the imposition of a penalty, other than proceedings in respect of the falsity of the information.

These immunities do not prevent an eligible whistleblower being subject to criminal, civil or other liability for conduct that is revealed by the whistleblower, only that the information the person has disclosed is not admissible in certain proceedings against them.

### 5.3 Protection of your Identity and Confidentiality

Eligible whistleblowers making a qualifying disclosure are protected by the requirement that their identity, and information that may lead to their identification, must be kept confidential, subject to relevant exceptions as set out in Section 4 above.

The College and the Province will protect an eligible whistleblower's identity by appropriately redacting documents and referring to the whistleblower in gender-neutral terms. It will also secure all documents and communicate in a way that will maintain confidentiality.



## 5.4 Protection of Files and Records

All files and records created from an investigation will be retained securely.

Unauthorised release of information to someone not involved in the investigation without your consent as the person making a disclosure will be a breach of this policy.

Those making a disclosure are assured that a release of information in breach of this policy will be regarded as a serious matter and will be dealt with under disciplinary procedures.

The College and the Province seeks to provide appropriate protections to disclosers, noting the following national legislative protections:

- *The Taxation Administration Act 1953 (Cth) (Taxation Administration Act)* also gives special protection to disclosures about breaches of any Australian tax law, provided certain conditions are met – refer to Appendix 1 for details.

## 6. Policy Review

This Policy will be monitored for compliance and effectiveness by the Principal, in consultation with the Province's Director of Professional Standards. This Policy will be reviewed after 12 months from approval and at least every two years thereafter.

## Further Information

Further information or assistance about anything contained in this document can be sought from the Principal.

**Purpose:** The purpose of this policy is to help deter wrongdoing, in line with the College's safeguarding *Code of Conduct* (Australian Province of the Society of Jesus), the St Aloysius' College Risk Management and Governance Framework and to ensure that any individuals of St Aloysius' College who disclose wrongdoing in relation to the College can do so safely, securely and with confidence that they will be protected and supported.

**Responsible Executive:** Principal

**Contact Officer:** Director of Business Operations

**Effective Date:** 1 April 2021

**Modification History:** Created: 18 February 2021

**Last edited:** 18 February 2021

**Next Review Date:** 1 February 2022



## APPENDIX 1

### Special Protections Under The Taxation Administration Act

The *Taxation Administration Act* gives special protection to disclosures about a breach of any Australian tax law by the College, or misconduct in relation to the tax affairs of the College if the following conditions are satisfied:

1. the discloser is or has been:
  - 1.1 a College Executive or employee of the College;
  - 1.2 an individual who supplies goods or services to the College (whether paid or unpaid) or an employee of a person who supplies goods or services (whether paid or unpaid) to the College, including employees of the Society of Jesus in Australia;
  - 1.3 an individual who is an associate of the College; or
  - 1.4 a spouse, child, dependent or dependent of the spouse of any individual referred to at (a) to (c) above;
2. the report is made to:
  - 2.1 a Protected Disclosure Officer;
  - 2.2 a director, secretary or senior manager of the College or a related body corporate;
  - 2.3 any external auditors (or a member of that audit team) engaged by the College;
  - 2.4 a registered tax agent or BAS agent who provides tax or BAS services to the College;
  - 2.5 any other employee or Executive of the College who has functions or duties relating to tax affairs of (eg an internal accountant);
  - 2.6 the Commissioner of Taxation; or
  - 2.7 a lawyer for the purpose of obtaining legal advice or representation in relation to a report; and
3. if the report is made to an Eligible Recipient, the discloser:
  - 3.1 has reasonable grounds to suspect that the information indicates misconduct, or an improper state of affairs or circumstances, in relation to the tax affairs of the College or an associate of; and
  - 3.2 considers that the information may assist the Eligible Recipient to perform functions or duties in relation to the tax affairs of the College or an associate of; and
4. if the report is made to the Commissioner of Taxation, the discloser considers that the information may assist the Eligible Recipient to perform functions or duties in relation to the tax affairs of the College or an associate of.

The protections given by the *Taxation Administration Act* when these conditions are met are:

1. the discloser is immune from any civil, criminal or administrative legal action (including disciplinary action) for making the disclosure;
2. no contractual or other remedies may be enforced, and no contractual or other right may be exercised, against the discloser for making the report;
3. where the disclosure was made to the Commissioner of Taxation, the reported information is not admissible against the discloser in criminal proceedings or in proceedings for the imposition of a penalty, except where the proceedings are concerned with whether the information is false;



4. unless the discloser has acted unreasonably, a discloser cannot be ordered to pay costs in any legal proceedings in relation to a report;
5. anyone who causes or threatens to cause detriment to a discloser or another person in the belief or suspicion that a report has been made, or may have been made, proposes to or could be made, may be guilty of an offence and liable to pay damages;
6. a discloser's identity cannot be disclosed to a Court or tribunal except where considered necessary; and
7. the person receiving the report commits an offence if they disclose the substance of the report or the discloser's identity, without the discloser's consent, to anyone except the Commissioner of Taxation, the AFP or a lawyer for the purpose of obtaining legal advice or representation in relation to the report.

## **Confidentiality**

If a report is made, the identity of the discloser will be kept confidential unless one of the following exceptions applies:

1. the discloser consents to the disclosure of their identity;
2. disclosure of details that might reveal their identity is reasonably necessary for the effective investigation of the allegations;
3. the concern is reported to the Commissioner of Taxation or the AFP; or
4. the concern is raised with a lawyer for the purpose obtaining legal advice or representation.