



Policy Code: Whistleblower/HR  
 Responsibility: HR  
 Last Updated: 1 January 2020  
 Due for Review: 11 March 2022  
 Accessible For:  Staff |  Students & Parents |  External

## 1 Purpose:

The purpose of the Whistleblower policy is to allow Radford College staff, parents, students, and volunteers to report serious concerns about College operations through appropriate and confidential channels without risk of retaliation, victimization or harassment in any form. The policy ensures that all College operations are conducted ethically and with integrity.

**Complaints Policy/Grievance:** Refer to the College's Complaints, Grievance and Harassment policies if you have a concern about day-to-day activity within the College.

**Whistleblower:** Proceed with this policy if you have a significant concern around business operations of the College, a breach of legislative responsibility, serious misconduct or unlawful activity.

## 2 Application and Scope:

This policy applies to and is binding upon all employees, parents, students and volunteers of Radford College. This document established Radford College policy relating to:

- Investigation of disclosed matters; and
- Protecting people from reprisals because of disclosures.

## 3 Definitions:

Word/Term	Definition
Disclosable Matters	Is a disclosure of information where the whistleblower has reasonable grounds to suspect that the information related to the College concern: <ul style="list-style-type: none"> <li>• Misconduct;</li> <li>• An improper state of affairs or circumstances;</li> <li>• Illegal activity;</li> <li>• Gross misconduct, such as, fraudulent activity, unlawful use of College funds, improper reporting, systemic practices that pose a serious risk to the health and safety of students, parents, employees or any person on College premises during College activities.</li> </ul>
Qualifying Disclosure	When a whistleblower makes a disclosure, under the guidelines of this policy, when there are reasonable grounds to suspect that the information concerns a disclosable matter.
Reasonable Grounds to Suspect	A member of the College Executive or Principal would have 'reasonable grounds to suspect' if the whistleblower has a suspicion that could be reasonably formed based on the facts and information available to them. If a disclosure is made without 'reasonable grounds' (eg. no substance) the disclosure will not be a qualifying disclosure and the whistleblower will not have the protections provided under this policy and the Corporations Act.
Whistleblower	A person who discloses wrong doings, corruption, mismanagement and any illegal activities taking place within the College.
Whistleblowing	The means by which employees, volunteers parents and students can raise concerns about conduct or practices within the College which are potentially illegal, corrupt, improper, dishonest, unsafe or unethical or which amount to mismanagement, and are able to do so without fear of victimisation and with confidence that their concerns will be taken seriously and dealt with properly.



## **4 Policy:**

### **4.1 Support for Whistleblowers**

Radford College's employee assistance program (EAP) services will be available to all whistleblowers and other employees affected by the disclosure, should support be required.

### **4.2 Guidelines**

#### **4.2.1 Safeguard against reprisal, harassment and victimisation**

Radford College will not tolerate harassment or victimisation of members of staff, volunteers, parents and students when matters are raised in accordance with the Whistleblower Policy. Any members of staff, volunteers, parents or students who victimise or harass any person as a result of their having raised a concern in accordance with the Whistleblower Policy will be dealt with under Radford College's disciplinary procedures and applicable laws.

#### **4.2.2 Confidentiality**

The College recognises that members of staff, volunteers, students and parents may want to raise concerns in confidence and will do its utmost to protect the identity of members of staff, students and parents who raise a concern and do not want their name disclosed. However, investigation into the concern could reveal the source of the information; and statements may be required from the member of staff, student or parent as part of the evidence, which would be seen by all parties involved if the investigation leads to prosecution and the whistleblower is likely to be called in to give evidence in court.

#### **4.2.3 Anonymous Allegation**

Staff, volunteers, students and parents, themselves or on behalf of their child should put their name to allegations whenever possible – anonymous concerns are much less powerful.

Nonetheless, anonymous allegations will be considered under this Whistleblower Policy.

In relation to determining whether an anonymous allegation will be taken forward the College will take the following factors into account:

- The seriousness of the issue raised;
- The credibility of the concern;
- The likelihood of confirming the allegation from attributable sources, and obtaining information provided.

#### **4.2.4 Untrue and malicious/vexatious allegations**

If a member of staff, volunteer, student or parent makes an allegation in good faith but it is not confirmed by further inquiry, the matter will be closed and no further action taken. If, however, the inquiry shows that untrue disclosures were malicious and/or vexatious, or made for personal gain, then the College will consider taking disciplinary action.

#### **4.2.5 Other complaints and allegations concerning child protection issues**

This policy is separate from the College Staff: Discrimination, Harassment, Bullying and Grievance Policy and other reporting procedures. Child Protection issues should be reported according to the specific guidelines outlines in the Child Protection Program.

### **4.3 Breach**

If you breach this policy, you may be subject to disciplinary actions.

### **4.4 Confidentiality and Records**

Under the Corporations Act, the identity of the discloser of a qualifying disclosure 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.

The discloser's identity and information which is likely to lead to the identification of the discloser can also be provided to any Commonwealth or State authority for the purpose of assisting the authority in the performance of its functions or duties. This could include Police, the ACT Ombudsman, or the ACT Department of Education.



# WHISTLEBLOWER

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.

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

## 4.5 Whistleblower Protections

Eligible whistleblowers making a qualifying disclosure are protected by the requirement that their identity, and information that may lead to their identification, should be kept confidential, subject to relevant exceptions as set out in section 4.2.2.

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 (generally external to the College) are 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.

Eligible whistleblowers are also protected from victimisation - suffering any detriment by reason of the qualifying disclosure. It is unlawful for a person to engage in conduct against another person that causes, or will cause detriment, where the person believes or suspects that the other person or a third person made, may have made, proposes to make or could make a qualifying disclosure.

Threats of detriment are also unlawful.

Remedies for being subjected to detriment could include:

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

The College and individuals may face significant civil and criminal penalties for failing to comply with confidentiality and detrimental conduct provisions.

## 5 Related Policies/Further Information:

Staff: Discrimination, Harassment, Bullying and Grievance Policy

College Community Grievances and Complaints

Child Protection Program

Privacy Policy

## 6 Legislation/References:

Corporations Act 2001 (Cth)

Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019

## 7 Version Control and Change History:

Version	Date Effective	Approved by	Amendment
1	1 January 2020		New policy.
2			



## **8 Procedures:**

### **8.1 Reporting Process**

Staff members, volunteers, students and parents who have knowledge of or information about mismanagement illegal activities, corruption or misconduct in College operations should report the misconduct in writing to the Principal. If a serious allegation of misconduct relates to the Principal a written complaint should be made to the Chair of the Board, address to Radford College.

### **8.2 Timescale for initial response**

The Principal, or the person appointed to investigate the allegations, will normally provide a written response to the whistleblower within five working days (except in the case of anonymous allegations):

- Acknowledging that the concern has been received;
- Indicating how it is proposed to deal with the matter;
- Giving an estimate of how long it will take to provide a final response;
- Advising whether any initial enquiries have been made;
- Advising whether further enquiries will take place;
- Informing the whistleblower of support available whilst matters are looked into.

### **8.3 Addressing reports**

Whistleblowers disclosing information regarding College operations should not attempt to investigate the matter independently, as doing so may compromise the integrity of an official investigation and adversely impact both the reporting person and the College.

A member of the College Executive or Principal will promptly and discreetly investigate any disclosed matter in operations, with the assistance of other College officials as appropriate. The Principal will report the results of their investigation and any recommendations for appropriate corrective and/or disciplinary action to the Chair of the Board.

The Board Chair will consult with other Board members, the Principal and members of the College Executive to decide on the action to be taken before implementing corrective, disciplinary action. In serious matters the concern will immediately be reported to the appropriate Commonwealth or Territory governing body.

The imposition of discipline, if any, will be made in accordance with the College's Code of Conduct, Professional Standards for Teachers and any other applicable College policies. In serious cases the matter will be dealt with under the appropriate Commonwealth and Territory laws.

Following notification of the Board Chair's decision, the whistleblower will be notified of the outcome normally within five working days (except in relation to anonymous allegations), setting out the action to be taken or that no further action is to be taken and the reasons why.

If the Board Chair is the subject of a report of misconduct, the Principal will work with the Deputy Chair of the Board to substitute for the Chair of the Board in his/her investigative or decision making role.