



## **POLICY: PROTECTED DISCLOSURE**

*Kia kaha, kia maia, kia manawanui.  
Be strong, be brave, be steadfast.*

### **PURPOSE:**

To comply with the Protected Disclosure Act of 2000.

### **GUIDELINES:**

Ensure the Ministry of Education (MoE) Guidelines below are followed.

This policy is issued in compliance with the Protected Disclosures Act 2000.

### **The policy consists of:**

1. A definition of a protected disclosure.
2. A definition of serious wrongdoing that can be the basis for a protected disclosure by an employee.
3. Conditions of disclosure.
4. Information on who can make a disclosure.
5. Protections for employees making disclosures.
6. Procedures by which an employee can make a disclosure.

#### **1. A definition of a protected disclosure**

A protected disclosure is a declaration made by an employee (defined in item 4 below) where they believe serious wrongdoing has occurred. For the disclosure to be protected the conditions for disclosure listed in item 3 below must be met.

Employees making protected disclosures will be protected against retaliatory or disciplinary action and will not be liable for civil or criminal damages related to the disclosures.

#### **2. Definition of serious wrongdoing**

Serious wrongdoing includes any serious wrongdoing of any of the following types:

- An unlawful, corrupt, or irregular use of funds or resources of public sector organisation; or
- An act or omission or course of conduct that constitutes a serious risk to public health or public safety or the environment; or
- An act or 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;
- Whether the wrongdoing occurs before or after the commencement of this act.

### **3. Conditions for the disclosure to be protected**

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; and
- The employee believes on reasonable grounds the information to be true or is likely to be true; and
- The employee wishes the serious wrongdoing to be investigated; and
- The employee wishes the disclosure to be protected.

### **4. Information on who can make a protected disclosure**

Any employee of the school can make a protected disclosure. For the purposes of this policy an employee includes:

- Current employees and principal
- Former employees and principals
- Contractors supplying services to the school
- A person concerned in the management of the organisation (including a person who is a member of the board or governing body of the organisation)
- A person who works for the organisation as a volunteer without reward or expectation of reward for that work.

### **5. Protection for employees making protected disclosures**

An employee who makes a protected disclosure and who has acted in accordance with the procedures outlined in this policy:

- May bring a personal grievance in respect of retaliatory action from their employers;
- May access the anti-discrimination provision of the Human Rights Act in respect of retaliatory actions 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;
- Will, subject to Clause E of the Procedure, have their protected disclosure treated with the utmost confidentiality.

The protections in this section will not be available to employees making allegations they know to be false or where they have acted in bad faith.

### **6. Procedures by which an employee can make a disclosure**

Any employee of Stella Maris Catholic Primary School who wishes to make a protected disclosure should do so using the following procedure:

#### **A. How to submit a disclosure**

The employee should submit the disclosure in writing.

#### **B. Information to be contained:**

The disclosure should contain detailed information including the nature of the serious wrongdoing and the name or names of the people involved. It should also contain facts including the details relating to the time and/or place of the wrongdoing.

**C. Where to send protected disclosures:**

A disclosure must be sent in writing to the Principal who has been nominated by the Stella Maris Catholic Primary School Board under the provision of Section 11 of the Protected Disclosure Act 2000 for this purpose.

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 Presiding Member of the School Board.

**D. Decision to investigate:**

On receipt of a disclosure the Principal or Presiding Member 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/Presiding Member or arranged by him/her as quickly as practically possible, through an appropriate authority.

**E. Protection of disclosing employees name:**

All disclosures will be treated with the utmost confidence. When undertaking an investigation, and when writing the report, the Principal 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 believe that disclosure of identifying information is essential:

- To ensure an effective investigation
- To prevent serious risk to public health or public safety or the environment
- To have regard to the principles of natural justice.

**F. Report of the investigation:**

At the conclusion of the investigation the Principal will prepare a report of the investigation with recommendations for action if appropriate, which will be sent to the Presiding Member.

**G. Disclosure to an appropriate authority in certain circumstances:**

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 Principal/Presiding Member or person in the school handling the complaint 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.

**H. 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
- Health and Disability Commissioner

- The head of every public sector organisation
- Disclosure to Ministers and Ombudsman e.g. Minister of Education

**I. A disclosure may be made to a Minister or Ombudsman of the employee making the disclosure has made the same disclosure according to the internal procedures and clauses of the policy because they:**

Reasonably believe that the person or authority to whom the disclosure was made

- Have decided not to investigate; or
- Have decided to investigate but not made progress with the investigation within reasonable time; or
- Have investigated but have 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.

This policy was written in accordance with the Education Circular 2003/8 (Revised 2000/29)

**POLICY REVIEW DATE:**

This policy will be reviewed according to the Board's Effectiveness Review Programme.