Whistleblower Policy

Purpose:	This policy exists to encourage the reporting of corrupt, illegal or other undesirable conduct at Montessori International College (MIC) under the Whistleblower Protection Regime. This policy outlines how individuals can make disclosures about such conduct appropriately, and how MIC will protect the identity of those individuals and ensure they are protected from detrimental consequences.	
Scope:	MIC's Board, Officers, Workers, Contractors and Service Providers, Other Persons associated with the school, including students and parents and third-party providers.	
Status:	☐ Draft ☑ Approved	**Supersedes:** Previous Policy 23 Sept 2024
Authorised by:	Board Chairperson	**Date of Authorisation:** 23/02/26
References:	• *Corporations Act 2001 (Cth)* • *Taxation Administration Act 1953 (Cth)* • *Treasury Laws Amendment (Enhancing Whistleblower Protections) Act 2019 (Cth)* • *Australian Standard AS8004-2003 Whistleblower Protection Program for Entities(repealed)*	
Review Date:	Biennially	**Next Review Date:** March 2028
Policy Owner:	School Governing Body	

POLICY STATEMENT:

Montessori International College (MIC) is committed to maintaining and promoting high standards of integrity, governance and ethical behaviour within the organisation by people at all levels, starting with the governing body, the principal, senior management and all other persons employed or engaged by MIC.

MIC is committed to operating:

- legally, and in accordance with all applicable laws;
- properly, in accordance with all organisational policy and procedures; and
- ethically, in accordance with MIC's values and vision.

All MIC employees and associates have a responsibility to help detect, prevent and report instances of suspicious activity or wrongdoing. MIC encourages the reporting of suspected misconduct to the Whistleblower Protection Officer in accordance with this policy.

The responsibilities of the Whistleblower Protection Officer and Whistleblower Investigations Officer do not reside in the same person. They operate, and should be seen and understood to operate, independently of each other and should act in such a way that they discharge the two quite separate functions independently of each other. Training of

these positions is provided to ensure awareness of the officer holders' obligations and responsibilities.

DEFINITIONS:

Whistleblower Protection Regime – what is it?

The Whistleblower Protection Regime is contained in *Part 9.4AAA of the Corporations Act*. The regime contains protections for individuals who disclose information regarding suspected wrongdoing or misconduct within an entity where certain requirements are met. The regime applies to all Australian corporations.

> **Note:** Part IVD of the *Taxation Administration Act 1953* (Cth) contains a similar whistleblower protection regime in relation to the reporting of information which either assists the Commissioner of Taxation in performing his or her functions and duties or indicates misconduct or an improper state of affairs or circumstances in relation to the tax affairs of a school.

Eligible Whistleblower[1] – Who qualifies for protection?

An individual is an Eligible Whistleblower if she or he has, or has had, a relationship with MIC. This relationship includes an individual being: an officer or employee of MIC, a supplier of services or goods to MIC (whether unpaid or paid (including volunteers)), an employee of a person that supplies services or goods to MIC, an associate of MIC[2], and a relative, spouse, and dependent of any of these individuals.

Disclosable Matter[3] – What kind of disclosures can be made under this policy?

A Disclosable Matter means information based on which an Eligible Whistleblower has reasonable grounds to suspect:

- misconduct (including fraud, negligence, default, breach of trust and breach of duty) or an improper state of affairs or circumstances in relation to MIC and if MIC is a Company Limited by Guarantee, a related body corporate of MIC;
- that the information indicates that MIC, or an officer or employee of MIC, and if MIC is a CLG, a related body corporate of MIC or an officer or employee of a related body corporate, has engaged in conduct that:
    - is an offence against, or contravention of, a provision of the Corporations Act or the *Australian Securities and Investments Commission Act 2001* (Cth);
    - is an offence against any other law of the Commonwealth that is punishable by imprisonment for a period of 12 months or more;
    - represents a danger to the public or the financial system.

A Disclosable Matter **does not** include information to the extent that it is a **Personal Work Grievance**. A Personal Work Grievance has the same meaning as "personal work-related grievance" as defined in the Corporations Act[4] which, at the date of this policy, means information disclosed relating to the discloser if:

[1] Corporations Act 2001 (Cth), section 1317AAA
[2] Within the meaning of "Associate" given by sections 10 to 17 of the Corporations Act which will generally include a director or secretary, a related body corporate and a director or secretary of a related body corporate.
[3] Corporations Act 2001 (Cth), section 1317AA (2) (4) (5)
[4] Corporations Act 2001 (Cth), section 1317AADA(2)

- the information concerns a grievance about any matter in relation to the discloser's employment, or former employment having (or tending to have) implications for the discloser personally; and
- the information does not:
    - have significant implications for MIC; and
    - does not concern a Disclosable Matter.

Eligible Recipients[5] – To whom can a disclosure be made?

Each of the following is an Eligible Recipient in relation to MIC:

- an officer or senior manager of MIC (or, if MIC is a CLG, an officer or senior manager of a related body corporate of MIC);
- the auditor or member of an audit team conducting an audit of MIC (or if MIC is a CLG, of a related body corporate of MIC);
- a person authorised by MIC to receive disclosures that may qualify for protection under the *Corporations Act*, such as the Whistleblower Protection Officer.

Reports made directly by a discloser to the Australian Securities and Investments Commission (ASIC), the Australian Prudential Regulation Authority (APRA) or another prescribed body are also protected by the regime.

Detriment[6]

Detriment refers to unfair action or treatment of an Eligible Whistleblower and includes the following:

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

When the protections apply

An individual is eligible for protection as a whistleblower under the Whistleblower Protection Regime in relation to a disclosure of information if:

1. he is or she is an **Eligible Whistleblower**; and
2. the disclosure is made to an **Eligible Recipient or to ASIC, APRA or another prescribed body**; and
3. the disclosure concerns a **Disclosable Matter**.

A disclosure made to a legal practitioner (e.g., a lawyer) for the purpose of obtaining legal advice or legal representation in relation to operation of the Whistleblower Protection Regime under the *Corporations Act* will also be protected[7] under the regime.

[5]Corporations Act 2001 (Cth), section 1317AAC (3).
[6] Corporations Act 2001 (Cth), section 1317ADA.
[7] Corporations Act 2001 (Cth), section 1317AA (2)

In certain circumstances, the Whistleblower Protection Regime allows Eligible Whistleblowers to make disclosures to professional journalists and members of parliament[8]. These are called “emergency disclosures” and “public interest disclosures”. Strict conditions apply in order for such a disclosure to qualify for protection[9].

Public interest disclosure

An individual will be protected under the Whistleblower Protection Regime if they make a "public interest disclosure" that meets the following conditions:

- the individual is an Eligible Whistleblower and makes an initial disclosure which meets the requirements in items 1 to 3 above in relation to MIC;
- 120 days has passed since the first disclosure was made;
- the individual does not have reasonable grounds to believe that action is being, or has been, taken to address the matters to which the previous disclosure related;
- the individual has reasonable grounds to believe that making a further disclosure of the information would be in the public interest;
- after at least 90 days from when the first disclosure was made, the individual gives to the person to whom the first disclosure was made written notice that:
    - includes sufficient information to identify the first disclosure; and
    - states that the individual intends to make a public interest disclosure;
- the individual makes the second disclosure to:
    - a member of parliament (either of the Commonwealth or State); or
    - a journalist (meaning a person who is working in a professional capacity as a journalist for a newspaper, magazine, radio or television broadcasting service, or an electronic service which is operated on a commercial basis or by a body that provides a national broadcasting service and which is similar to a newspaper, magazine or radio or television broadcast); and
- the extent of the information disclosed by the individual in making the public interest disclosure is no greater than is necessary to inform the recipient of the Disclosable Matter.

Emergency Disclosure

An individual will be protected under the Whistleblower Protection Regime if they make an "emergency disclosure" that meets the following conditions:

- the individual is an Eligible Whistleblower and makes an initial disclosure of a disclosable matter in relation to MIC to ASIC, APRA or another prescribed body;
- the individual has reasonable grounds to believe that the information concerns a substantial and imminent danger to:
    - the health and safety of one or more persons; or
    - the natural environment;
- the individual gives to the person to whom the first disclosure was made written notice that:
    - includes sufficient information to identify the first disclosure; and
    - states that the individual intends to make an emergency disclosure; and
- the individual makes the second disclosure to:
    - a member of parliament (either of the Commonwealth or State); or

[8] Corporations Act 2001 (Cth), section 1317AAD (3)
[9] Corporations Act 2001 (Cth), section 1317AAD

    - a journalist (meaning a person who is working in a professional capacity as a journalist for a newspaper, magazine, radio or television broadcasting service, or an electronic service which is operated on a commercial basis or by a body that provides a national broadcasting service and which is similar to a newspaper, magazine or radio or television broadcast); and
- the extent of the information disclosed by the individual in making the emergency disclosure is no greater than necessary to inform the recipient of the substantial and imminent danger.

How to make a report

MIC is committed to providing a safe, reliable and confidential way of reporting any Disclosable Matters. ASIC is the government regulator of the Whistleblower Regime and it encourages reporters to make a disclosure to one of the school's internal or external eligible recipients in the first instance. MIC would like to identify and address wrongdoing as early as possible and its approach is intended to help build confidence and trust in its whistleblower policy, processes and procedures. A reporter can make a disclosure directly to regulatory bodies (ASIC, APRA or another prescribed body) about a disclosable matter and qualify for protection under the Whistleblower Regime without making a prior disclosure to the school.

A report to the school may be made verbally, including via telephone, or in writing, including by email.

The report should include details of:

- The nature of the allegation(s);
- The individuals involved;
- The key facts on which the person making the report has formed the view that a Disclosable Matter exists and involves the individual or individuals named in the report; and
- The nature and whereabouts of any additional evidence that substantiates the allegation(s).

Reports will be treated confidentially as follows:

- The telephone numbers listed below will be manned only by Eligible Recipients and numbers will not be recorded. Individuals may also send text messages to the telephone numbers listed below. If a reporter wishes to remain anonymous, any text messages should be sent from a number that is not known to MIC.
- Written reports sent to the email addresses listed below will only be accessible by Eligible Recipients and password protected. If a reporter wishes to remain anonymous, any emails should be sent from an email address that is unknown to MIC and which does not identify the reporter.

Whistleblower Protection Officer

The Board Chairperson is appointed as a Whistleblower Protection Officer who safeguards the interests and identity of the eligible whistleblower in terms of this policy and any applicable legislation and any employment policies, as limited by law.

The Whistleblower Protection Officer will have direct, unfettered access to independent financial, legal and operational advisers as required.

The Whistleblower Protection Officer can be contacted by the following means:

- *board.chair@mic.qld.edu.au*

All correspondence received under this policy will be acknowledged within forty-eight (48) working hours, unless exceptional circumstances prevent this.

Whistleblower Investigations Officer
The COO is appointed as MIC Whistleblower Investigations Officer. Their responsibility is to investigate the disclosure and prepare a report as required under this policy.

The Whistleblower Investigations Officer can be contacted by the following means:

- *coo@mic.qld.edu.au*
- *07 5442 3807*

Auditor of MIC

Reports can also be made to MIC's auditor, or a member of the audit team.

The Whistleblower Protection Officer and the Whistleblower Investigations Officer will report to the next reporting line (e.g., the Principal or COO). If this line of reporting is affected by the Disclosable Matter, then the matter would be referred to the Principal or Chairperson of the Board.

An assessment will then be made regarding whether the report qualifies for protection under the Whistleblower Protection Regime and if a formal, in-depth investigation is required.

Anonymous Reporting

Whilst the identity of a reporter will enable the Eligible Recipients and Whistleblower Protection Officer to have ongoing communication with a reporter (which will likely assist in the investigation), reporters may remain anonymous. If a reporter wishes to remain anonymous, they should maintain ongoing two-way communication with the Whistleblower Protection Officer so that the officer can ask follow-up questions or provide feedback without knowing the reporter's identity.

MIC will protect the anonymity of a reporter by communicating via an anonymous phone number or email address and allowing the reporter to adopt a pseudonym for the purposes of the disclosure and investigation.

Importantly, disclosures made anonymously will still be protected under the Whistleblower Protection Regime.

False Reports

At MIC, an Eligible Whistleblower will not be disadvantaged by making a report unless the report is knowingly false. If the report is false, this will be taken as a serious matter and the reporter will be subject to disciplinary proceedings as per employment policies.

Investigation
MIC will investigate all matters reported pursuant to this policy as soon as practicable once a report has been received and within 21 days of a report being received.

The purpose of the investigation is to determine whether or not the reported concerns or allegations are substantiated, with a view to rectifying any wrongdoing uncovered to the extent that this is practicable in all the circumstances.

The investigation will be thorough, objective, fair and independent of the reporter and anyone who is implicated in the Disclosable Matter. This includes investigating without bias and any person implicated in the Disclosable Matter will have a right to respond.

The reporter (where possible, having regard to the reporter's request for anonymity) will be kept informed of the outcomes of the investigation arising from their report, subject to considerations of the privacy of anyone who is the subject of the Disclosable Matter and confidentiality requirements. Any reporter who is not an employee must first agree in writing that they will maintain the strict confidentiality of the report and the substance of the report and the investigation before they can be kept informed of the investigation.

Investigation processes will vary depending on the precise nature of the matter being investigated but will generally proceed as follows:

- With the consent of the reporter, the Eligible Recipient will inform the Whistleblower Protection Officer of the report. If the Eligible Recipient determines that this is not appropriate (for example, the information relates to the Whistleblower Protection Officer or the Whistleblower Investigations Officer) they will inform another appropriate, responsible individual e.g., Principal or Board Chairperson.
- The Whistleblower Protection Officer will appoint the Whistleblower Investigations Officer or, if the Whistleblower Protection Officer determines that this is not appropriate (for example, the information relates to the Whistleblower Investigations Officer), they will inform another appropriate, responsible individual.
- The Whistleblower Investigations Officer (or other person appointed to investigate the report) will be required to notify the Board of MIC in order to commence the investigation. The identity of the reporter will be protected if required by the reporter.
- Where appropriate, MIC may, in its discretion, provide a reporter with feedback regarding the investigations and outcome.
- An investigation will be conducted in a fair and objective manner, as is reasonable and having regard to the nature of the matter reported, the report made and any relevant circumstances.
- The enquiries made, and the process of the investigation will be determined by the individual/s conducting the investigation having regard to the nature and substance of the report. This may include the investigation being undertaken internally or the appointment of an independent third party.
- If a report is not made anonymously, or the reporter has otherwise provided a means of contact, the Whistleblower Protection Officer will be in contact with the reporter to discuss the investigation process including who may be contacted during the process and other matters relevant to the investigation.
- If the report is made anonymously, and the reporter does not provide a means by which they may be contacted, the investigation will be conducted based solely on the content of the report.
- Throughout the investigation:
    - All information obtained will be properly secured to prevent unauthorised access and disclosure in accordance with this policy;

- All relevant witnesses will be interviewed, and documents examined;
- The identity of any individuals named or implicated in the reported conduct will be kept confidential;
- Witnesses will be directed not to draw inferences regarding the identity of any individuals involved in any alleged misconduct based on the substance of the questions asked;
- Notes will be made of all discussions, phone calls and interviews;
- Without the reporter's consent, MIC cannot disclose information that is likely to lead to identification of the reporter as part of its investigation process, unless:
  - the information does not include the reporter's identity;
  - MIC removes information relating to the reporter's identity or other information that is likely to lead to the identification of the reporter (e.g., name, position, title, other identifying details); or
  - the disclosure is authorised under the Whistleblower Protection Regime (e.g., the disclosure is made to ASIC, APRA, the AFP or a legal practitioner for the purpose of obtaining legal advice or legal representation in relation to the operation of the Whistleblower Protection Regime);
  - it is reasonably necessary for the investigation of the issues raised in the disclosure.

- If the reporter has provided contact details or means by which they may be contacted, MIC will provide the reporter with regular updates. The frequency and timeframe of updates will vary depending on the subject matter of the report.
- The Board of MIC will ensure that the investigation is completed within a reasonable time depending on the circumstances and within no more than 90 days of the commencement of the investigation, subject to extraordinary circumstances justifying extension beyond this time.
- A reporter who makes an anonymous report may choose to remain anonymous while making a report, over the course of the investigation and after the investigation is finalised. Accordingly, a reporter can refuse to answer questions that they feel could reveal their identity at any time.
- The investigation process may be subject to some limitations, including that MIC may not be able to undertake an investigation if it is not able to identify the reporter; for example, if a report is made anonymously and the reporter has refused to provide, or has not provided, a means of contact for any further questions or follow up which MIC may need as part of the investigation.
- At the conclusion of the investigation, the Whistleblower Investigations Officer (or other person appointed to conduct the investigation) will prepare a report for the Board of MIC which will include:
  - the allegations;
  - a statement of all relevant findings of fact and the evidence gathered and upon which conclusions have been based;
  - the conclusions reached, including the damage caused, if any, and the impact on MIC and any other affected parties;
  - recommendations, based on the report's conclusions, to address any wrongdoing identified and any other matters that arose during the investigation.

- The report will be provided to the Board of MIC and the reporter (if possible), with any applicable confidentiality stipulations.

Ensuring fair treatment of employees who are mentioned in reports

To ensure that employees who are mentioned in reports are treated fairly, MIC will ensure that the principles of natural justice are adhered to throughout the investigation process whilst maintaining the protection of Eligible Whistleblowers. For example, MIC will ensure that employees named in the reports are provided with details of any allegations made against them along with any relevant evidence substantiating those allegations and affording them a right to respond to the allegations.

Protection of Eligible Whistleblowers

To encourage reporting, MIC is committed to ensuring the confidentiality of all matters raised under this policy and the protection and fair treatment of those who make a report and those named or implicated in a report during the investigation process.

Eligible Whistleblowers will be protected as follows:

Protection against detrimental treatment

MIC will not tolerate or permit a person within MIC to:

- engage in conduct that causes Detriment to a reporter (or another person) in relation to a report, if:
    - the person believes or suspects that the reporter (or another person) made, might have made, proposed to make or could make a report that qualifies for protection; and
    - the belief or suspicion is the reason, or part of the reason, for the conduct;
- make a threat (whether express or implied, conditional or unconditional) to cause Detriment to a reporter (or another person) in relation to a report.

Detrimental treatment includes dismissal, demotion, harassment, discrimination, bullying, disciplinary action, threats, bias or other unfavourable treatment connected with making a report under this policy. This may include actions that affect a person's employment, engagement, or participation in College activities, as well as decisions relating to student enrolment status, class allocation, program access, or other administrative arrangements where such decisions are made as a result of, or in retaliation for, a disclosure made under this policy.

Detrimental treatment does not include reasonable administrative action, such as genuine performance management, lawful disciplinary processes, or the bona fide exercise of legal or operational rights by the College, provided such action is not taken in response to a report made under this policy.

If a reporter is subjected to detrimental treatment as a result of making a report under this policy, they should immediately inform the Whistleblower Protection Officer or other individual handling the report.

Protection of the reporter's identity and confidentiality

Subject to any legal requirements, on receiving a report under this policy, MIC will act in accordance with the Corporations Act requirements for confidentiality and only share a reporter's identity as a whistleblower or information likely to identify a reporter if:

- the reporter consents; or the information is shared by the school with ASIC, APRA or another prescribed body for the purpose of making a report; or
- the concern is raised with a lawyer for the purpose of obtaining legal advice or representation.

Under the *Corporations Act,* it is illegal for a person to identify a disclosure or disclose information that is likely to lead to the identification of the Eligible Whistleblower, outside the above exemptions.

An Eligible Whistleblower may lodge a complaint with MIC about a breach of confidentiality in accordance with MIC's Complaints Handling Policy. An Eligible Whistleblower may also lodge a complaint with a regulator, such as ASIC or APRA, if their confidentiality is not protected.

MIC will protect the confidentiality of a reporter by:

- reducing the risk that the reporter will be identified from the information contained in the disclosure by:
    - redacting all personal information or reference to the identity of the reporter witnessing an event;
    - referring to the reporter in gender-neutral terms;
    - contacting the reporter to help identify certain aspects of the disclosure that could inadvertently identify them; and
    - ensuring that disclosures are handled and investigated by qualified individuals.
- ensuring that its record-keeping and information sharing processes are adequate to ensure the protection of a reporter's identity, such as by:
    - storing all records securely;
    - ensuring access to all records and information relating to the disclosure is limited to those directly involved in managing and investigating the disclosure;
    - ensuring that only a restricted number of individuals directly involved in the handling and investigation of a disclosure will be aware of the reporter's identity (subject to the reporter's consent) or information which may identify the reporter;
    - ensuring that material relating to the matter will not be sent to an email address or left in a situation (such as at a communal printer) that can be accessed by other individuals; and
    - reminding all individuals involved in the handling and investigation of a matter are regularly reminded of their confidentiality requirements, including that in the circumstances that apply under the Whistleblower Protection Regime, the unauthorised disclosure of an individual's identity may be a criminal offence.

Protection of Files and Records

In order to protect the reporter and any individual named or implicated in a report, MIC will ensure that all files and records created from an investigation arising from a report made under this policy will be stored safely and securely and will be appropriately protected having regard to whether the records are stored in electronic form or in paper copy.

This will be achieved by:

- If the files are electronic – ensuring that the system is adequately protected by password protection or encryption, and the files and records are stored on secure data storage systems and accessible only by authorised individuals involved with the investigation or with sufficient security clearance;

- If the files are hard copy – ensuring that the files are stored in locked storage and that the keys to the storage are kept safely and securely in a location only known to authorised individuals involved with the investigation or with sufficient security clearance.

Protections under the Corporations Act

In addition to the above internal mechanisms to protect a reporter, the *Corporations Act* contains special protections for Eligible Whistleblowers if the conditions in conditions 1, 2, and 3 in the section of this policy headed "When the protections apply" are met. These special protections are:

- the Eligible Whistleblower is immune from any civil, criminal or administrative legal action (including disciplinary action) for making the disclosure;
- no contractual or other remedy may be enforced, and no contractual or other right may be exercised against the Eligible Whistleblower for making the disclosure;
- in some circumstances, the disclosed information is not admissible against the Eligible Whistleblower in criminal proceedings or in proceedings for the imposition of a penalty[10];
- anyone who causes or threatens to cause Detriment to an Eligible Whistleblower 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 may be liable for damages;
- an Eligible Whistleblower's identity cannot be disclosed to a court or tribunal except where considered necessary; and
- the person receiving the report commits an offence if they disclose the Eligible Whistleblower's identity or information that is likely to lead to the identification of the Eligible Whistleblower, without the Eligible Whistleblower's consent, to anyone except:
    - ASIC;
    - APRA;
    - the Australian Federal Police (AFP); or
    - a legal practitioner for the purpose of obtaining legal advice or representation in relation to the disclosure.

<u>However, these protections **do not** grant immunity for any misconduct that an Eligible Whistleblower has engaged in that is revealed in their disclosure.</u>

MIC will ensure that Eligible Whistleblowers are protected against Detriment by:

[10] For example, where the disclosure has been made to ASIC or APRA, or where it qualifies as a public interest disclosure or emergency disclosure.

- undertaking an assessment of the risk of Detriment against the Eligible Whistleblower and other persons (e.g. other personnel who may be suspected to have made a disclosure) as soon as possible after receiving the disclosure;
- where possible, providing support services to the Eligible Whistleblower e.g. counselling sessions, to assist the Whistleblower to minimise and manage stress;
- where possible, engaging with the Eligible Whistleblower to assist in providing or identifying strategies to minimise and manage time or performance impacts or other challenges resulting from the disclosure or the investigation, such as by providing other modifications for the Eligible Whistleblower to continue to work e.g. reassignment to another role, changes to their role or the way they perform their duties;
- ensuring MIC's management is aware of their responsibilities to maintain the confidentiality of a report, address the risks of isolation or harassment, manage conflicts and ensure fairness when managing the performance of, or taking other management action relating to, an Eligible Whistleblower;
- informing the Eligible Whistleblower that they can lodge a complaint with MIC via the Whistleblower Protection Officer if they have suffered a Detriment in accordance with MIC's complaints policy. Any complaint will be taken seriously and dealt with by MIC in accordance with that policy.