

GUIDELINES – WHISTLEBLOWER PROTECTION POLICY FOR EMPLOYEES & SERVICE PROVIDERS

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**EDMUND RICE EDUCATION
AUSTRALIA**

1. Preamble

EREA's legislative responsibilities for protecting individuals making a qualifying whistleblower disclosure differ depending on the person making the disclosure. As such, EREA has created two sets of Guidelines to the Whistleblower Protection Policy to accommodate:

- i) The **Employees and Service Providers** Guidelines should be used by employees, service providers and contractors; and
- ii) The **Students and Parents** Guidelines are for parents and students.

Both sets of Guidelines outline the process by which EREA manages the reporting of actual, planned or suspected 'wrongdoing' which the reporting party believes cannot be reasonably managed through existing internal reporting procedures. EREA has internal reporting procedures for matters relating to:

- i) Child protection (Child Safe Code of Conduct, Child Protection Policy, Child Protection Incident Notification)
- ii) Health & Safety (Workplace Health and Safety Policy)
- iii) Complaints (Complaints Handling Policy and Program)
- iv) Internal Grievances (Code of Conduct, Sexual Harassment, Discrimination and associated policies)

The existing EREA reporting procedures should be used in the first instance to raise a concern. We recognise some Employees or Service Providers may not feel comfortable or safe openly reporting an issue under these procedures. In those circumstances, the Whistleblower Protection Policy and Guidelines should be used.

2. Introduction

Edmund Rice Education Australia Entities (EREA) are committed to ethical behaviour that is aligned with the values contained within the EREA Charter and Touchstones and EREA Code of Conduct and complies with all relevant laws and regulations.

EREA is committed to providing a supportive environment for any person making a whistleblower disclosure. This includes protection from dismissal or demotion, any form of reprisal including retaliation, harassment or victimisation.

EREA has a Whistleblower Protection Policy accompanied by Guidelines. Each is available through EREA and each member school's website.

All EREA Directors and Employees are required to undertake an internal training course with respect to the objectives and practical application of EREA's Whistleblower Policy and Guidelines. The course is available on the Staff Learning System.

3. Objectives

The objectives of the Whistleblower Protection Policy and Guidelines are to:

- encourage the reporting of actual or suspected wrongdoing that cannot appropriately be reported through normal reporting channels;
- describe clearly the process for making a whistleblower disclosure and the types of matters that should be reported;
- describe clearly the process for investigating a whistleblower disclosure;
- outline how EREA manages whistleblower disclosures in a way that will support and protect the whistleblower, as well as ensure fairness for a person named in the disclosure.
- give effect to the spirit of whistleblower legislation that prohibits regulated organisations from taking adverse action against any staff member, or a supplier of services or goods.

4. Definitions

A **whistleblower** is a person who makes a disclosure, outside normal operational channels, whether anonymously or not, with respect to serious misconduct such as corruption, fraud or some other illegal or undesirable activity observed within an EREA member entity.

5. Roles & Responsibilities

There are a number of key roles supporting EREA's Whistleblower Protection program. Key roles and their main responsibilities are outlined below:

- i) **Discloser ('Whistleblower')**
 - A person who reports a wrongdoing (i.e. 'disclosure') according to the law or the EREA Whistleblower Protection Policy and Guidelines. (may be referred to as a 'whistleblower')
- ii) **Disclosure Officers (EREA):**
 - The Relevant Subsidiary CEO, for Subsidiary disclosures, the National Executive Director (NED), for Parent Entity disclosures; and the Chief Risk officer (CRO) for all disclosures, except:
 - (i) Where a disclosure is made against a CEO, NED or the CRO, a Relevant Board Director assumes the role of conflicted Disclosure Officer; or
 - (ii) Where a disclosure is made against a Board member, the EREA Board Chair assumes the role of Disclosure Officer.
 - (iii) Where a disclosure is made against the Board Chair, the EREA Council President assumes the role of Disclosure Officer.
 - (iv) Where a disclosure is made against a Council member, the EREA Council President assumes the role of Disclosure Officer.
 - (v) Where a disclosure is made against the President of Council, the Deputy President assumes the role of Disclosure Officer.
 - Disclosure Officers jointly
 - i) manage reports that have been made directly to EREA and Your Call when consent provided by the discloser

- ii) Make decisions as the Disclosure Officers Committee
 - iii) **Disclosure Officers Committee (EREA):**
 - Each Disclosure Officer is are required to constitute the Committee to make the following decisions:
 - whether an investigation is required, and the subsequent appointment of an investigator
 - appointment of a Whistleblower Protection Officer (WPO) to support and protect the whistleblower
 - iv) **Whistleblower Protection Officer (EREA WPO):**
 - Appointed at the discretion of the Disclosure Officers Committee to support, protect and advocate for the whistleblower, where appropriate or required
 - v) **Whistleblower Investigation Officer:**
 - Appointed by the Disclosure Officers Committee
 - Can be an internal or external party
 - Must conduct a thorough and fair investigation
 - vi) **Eligible Recipients: (EREA Governors & Senior Leadership, Principals, Your Call, External Regulators)**
 - Can be contacted directly by a whistleblower to receive a whistleblower report
 - At EREA Eligible Recipients are:
 - Council Trustees
 - Entity Board Members
 - NED
 - CEOs
 - CRO
 - SAC members
 - When the whistleblower has provided consent to do so, the Eligible Recipient must then pass on the report information to the Disclosure Officers & Committee
 - External Regulators can be contacted directly and recipients of whistleblower reports
 - vii) **External Service Provider (Your Call)**
 - Independent, external firm appointed by EREA to administer the online disclosure management system which captures disclosures from emails, phone calls and other means.
 - Ensures the anonymity of anyone making a disclosure is maintained independently of EREA's IT Systems.
 - Appropriately escalates a qualifying disclosure to the designated delegation within EREA for further action or investigation.

6. Scope

EREAs Whistleblower Protection Policy and accompanying Guidelines are available to all current or former:

- EREA Council and Board Members
- EREA National Executive Director and staff members
- EREA CEOs and staff members
- Principals, Deputy Principals & Business Managers
- permanent, part-time and casual staff (teaching and non-teaching)
- volunteers
- contractors
- suppliers

7. Types of Conduct to be Reported

EREAs Whistleblower Protection Policy and accompanying Guidelines are designed to capture actual or suspected serious misconduct that a person providing the disclosure considers cannot reasonably be managed through existing internal reporting procedures.

Examples of serious misconduct that may be reportable include:

- fraud, forgery, misappropriation, misuse, misdirection, misapplication, maladministration or waste of funds
- gross mismanagement
- grooming and/or child abuse
- conflicts of interest, nepotism, favouritism
- theft, embezzlement, tax evasion
- corruption, dishonesty involving influence
- coercion, harassment or discrimination by, or affecting any staff, volunteers or contractors
- assault, blackmail, taking or offering bribes
- abuse of public trust
- misleading or deceptive conduct of any kind, including conduct or representations that amount to improper or misleading accounting or financial reporting practices by or affecting EREA
- other criminally prosecutable offences
- failure to report, or concealment of, an indictable offence
- unreasonable danger to health or safety of others
- failure to act in accordance with applicable professional and ethical standards
- blatant disregard for organisational policies
- a significant threat to the environment
- significant breach of the terms of any contract that binds EREA
- other serious acts such as refusing to carry out lawful and/or reasonable actions under a contract
- other serious misconduct that may materially damage EREAs reputation, or may otherwise be detrimental to EREA and its member entities
- any other act that would otherwise be considered, by a reasonable person, to be serious improper conduct, or an improper state of affairs, or circumstances.

Serious misconduct would also include a deliberate attempt to conceal any of the actions described above.

A person making a whistleblower disclosure is expected to have reasonable grounds for believing that serious misconduct has occurred.

A whistleblower should not use the whistleblower service to report a personal work-related grievance, a third-party complaint or a child protection incident that could be more effectively managed through existing internal reporting procedures.

Examples of that may be personal work-related grievances are:

- An interpersonal conflict between the discloser and another employee;
- Decisions that do not involve a breach of workplace laws, for example:
 - I. About the engagement, transfer or promotion of the discloser
 - II. About the terms and conditions of engagement of the discloser
 - III. To suspend or terminate the engagement of the discloser, or otherwise discipline the discloser.
- Claims of a vexatious or mischievous nature that are 'disguised' as an attempted whistleblower disclosure.

If a disclosure is made through the whistleblower service that does **not** meet the threshold of reportable misconduct such as that listed above, it may be referred by EREA to the appropriately delegated authority to manage and will be recorded as not being a disclosable matter for the purposes of whistleblower protection.

Protection of anonymity does not apply in the same strictness to disclosures that are not disclosable matters, however confidentiality will be maintained as appropriate.

8. Whistleblower Support & Protection

EREA is committed to providing a supportive environment for any person making a whistleblower disclosure and will use our best endeavours to ensure that no individual making a whistleblower disclosure, is personally disadvantaged by having made a disclosure. This includes protection from dismissal or demotion, any form of reprisal including retaliation, harassment or victimisation.

Further details of support and protections provided are set out below.

Anonymity and Confidentiality

EREA will, as far as reasonably possible, provide to whistleblowers the ability to make a report anonymously and will take all reasonable steps to reduce the risk that the discloser will be identified as a result of the investigation.

EREA make Eligible Recipients available to receive whistleblower reports in person or in writing. It also engages Your Call as our external Eligible Recipient of disclosures. One of the primary purposes of retaining Your Call is to allow whistleblowers to disclose their identity to Your Call only and to keep their identity confidential from EREA.

If a whistleblower provides their identity to Your Call it can assist in any subsequent investigation, and will also allow Your Call to follow up and seek any clarification or provide feedback. If the whistleblower's identity is disclosed to Your Call, they will at the first

opportunity discuss with the whistleblower the issues of anonymity and confidentiality and the degree of risk that their identity may become known during an investigation.

Information received from a whistleblower will be held in the strictest confidence and will only be disclosed to a person not connected with the investigation if:

- the whistleblower has been consulted and consents in writing to the disclosure; or
- Your Call is compelled by law to do so.

You Call will advise the whistleblower if matters change in a way that affects their ability to protect the whistleblower's identity and will give the whistleblower as much warning as reasonably possible if it appears likely that their identity will become known.

Supportive Environment

EREA is committed to providing a supportive environment for any person making a whistleblower disclosure. In particular, a whistleblower can expect that:

- any request for anonymity is respected and if their identity is revealed it will, as far as possible, remain confidential and only be disclosed on an "as needed basis"
- the details of their disclosure will remain confidential to the extent that is practical in the circumstances and will only be released on an "as needed basis" during the investigation phase, or as required by law
- they will be protected from retaliation, harassment or victimisation
- should retaliation occur, it will be treated as serious misconduct and the perpetrator of the retaliation will be subject to disciplinary action.

Where a whistleblower provides their identity to Your Call but not to EREA, it is the role of Your Call to ensure that they are supported throughout the investigation process.

Where a whistleblower provides their identity directly to EREA it is the role of EREA Disclosure Officers to determine the need to appoint a Whistleblower Protection Officer to ensure that the whistleblower is supported throughout the investigation process.

Your Call and/or EREA's Whistleblower Protection Officer will also advise the whistleblower of professional support services, such as confidential professional counselling services, that may be available.

Protection from Retaliation, Harassment or Victimisation

EREA does not tolerate retaliation, harassment or victimisation being taken against whistleblowers for reporting actual or suspected wrongdoing, including when suspicions are not substantiated following a thorough investigation.

EREA takes steps to promote awareness to all staff of their responsibilities to treat their colleagues and stakeholders with respect, and never to engage in behaviour that is discriminatory or that characterises bullying or harassment. These responsibilities encompass acknowledging that reporting actual or suspected wrongdoing is integral to an ethical culture, and nobody who reports actual or suspected wrongdoing should experience retaliation, harassment or victimisation as a

result.

If a whistleblower provides their identity when making a whistleblower disclosure, and a Whistleblower Protection Officer is appointed by the Disclosure Officers, the Whistleblower Protection Officer will proactively monitor the workplace for signs of retaliation, harassment or victimisation and intervene when necessary. A whistleblower who experiences retaliation, harassment or victimisation should immediately report it to EREA's Whistleblower Protection Officer, or a Disclosure Officer, where a Whistleblower Protection Officer has not been appointed. Any such conduct may be treated as serious misconduct and the perpetrator of the retaliation may be subject to disciplinary action.

False or Misleading Disclosures

Anyone who makes a disclosure knowing it to be vexatious, false or misleading may be subject to disciplinary action. The disciplinary action will depend on the severity, nature and circumstance of the false disclosure. EREA however does not wish to deter disclosures. In cases where disclosers have some information leading to a suspicion, but not all the details, persons are encouraged to speak up and report the misconduct and will not face disciplinary action in those circumstances.

Civil, Criminal and Administrative Liability Protection

A person making a whistleblower disclosure that triggers the Whistleblowing Policy determined by the Disclosure Officers, is protected from the following in relation to that disclosure:

- Civil liability such as any legal action against the discloser for breach of an employment contract, duty of confidentiality or another contractual obligation;
- Criminal liability such as the attempted prosecution of the discloser for unlawfully releasing information, or other use of the disclosure against the discloser in a prosecution (other than for making a false disclosure); and
- Administrative liability such as any disciplinary action for making the disclosure.

These protections do not grant immunity for any misconduct a whistleblower discloser has engaged in that is revealed in their disclosure.

Legal Advice, Compensation & Other Remedies

A person who intends to, or actually makes a whistleblower disclosure is entitled to seek independent legal advice in relation to the matter, at their own expense.

Whistleblower disclosers (or any other employee or person) can seek compensation and other remedies through the courts if:

- They suffer loss, damage or injury because of a whistleblower disclosure; and
- It is alleged that EREA failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct identified.

A whistleblower discloser may also contact relevant regulatory bodies (such as Commonwealth and State Government agencies) if they believe they have suffered detriment.

Public Interest Disclosures and Emergency Disclosures

A 'public interest disclosure' refers to an option a person (whistleblower) has to disclose information to a journalist or a parliamentarian where:

- At least 90 days have passed since the whistleblower disclosure was lodged as per the EREA Whistleblowing Protection Policy and Guidelines
- The whistleblower discloser does not have reasonable grounds to believe that action is

- being, or has been taken, in relation to their disclosure
- The whistleblower discloser has reasonable grounds to believe that making a further disclosure of the information is in the public interest
- Before making the public interest disclosure, the whistleblower discloser has given written notice to EREA’s external Whistleblower Service Provider stating that:
 - I. the public interest disclosure includes sufficient information to identify the whistleblower disclosure
 - II. the whistleblower discloser intends to make a public interest disclosure

An ‘emergency disclosure’ is the disclosure of information to a journalist or parliamentarian, where:

- The whistleblower discloser has previously made the disclosure as per the EREA Whistleblower Protection Policy and Guidelines, as prescribed
- The whistleblower discloser 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
- Before making the emergency disclosure, the whistleblower discloser has given written notice to EREA’s external Whistleblower Service Provider that:
 - I. The emergency disclosure includes sufficient information to identify the whistleblower disclosure
 - II. The whistleblower discloser intends to make an emergency disclosure

The extent of the information disclosed in the emergency disclosure is no greater than is necessary to inform the journalist or parliamentarian of the substantial and imminent danger.

9. Investigating a Whistleblower Disclosure

All reports, other than those that are not disclosable matters (as determined by the Disclosure Officers Committee), will be investigated by a Whistleblower Investigator.

Whistleblower Investigators must be independent of the whistleblower, or any person being the subject of the reported conduct.

Disclosures made against the National Executive Director, CEO or a member of EREA Boards or Council will always be subject to independent, external investigation.

Whistleblower Investigators will have reasonable access to independent specialist advice if required and will as far as reasonably possible, follow best practice in investigations including ensuring that all reports of actual or suspected wrongdoing will be investigated in a way that adheres to the principles of objectivity, procedural fairness, confidentiality and natural justice. This includes providing fair treatment to people who have been mentioned in a report of actual or suspected wrongdoing, by informing them of the substance of statements that have been made about them and giving them a reasonable opportunity to respond.

It is acknowledged that an investigation may not be able to be undertaken if the discloser is not able to be contacted (eg if a disclosure is made anonymously and the discloser has refused or omitted to provide a means of contacting them).

10. Provision of Feedback

If the whistleblower’s identity is known to the Whistleblower Investigator then, where possible EREA will provide feedback to the whistleblower during the course of the investigation and will ensure that the whistleblower will be informed of the outcome of an investigation and in particular:

- if the whistleblower’s concern was substantiated, the action that has been taken or will be taken to address the issues;
- if the whistleblower’s concern was not substantiated, that no further action will be taken unless further information becomes available.

11. How to Make a Whistleblower Disclosure

To provide effective protection of whistleblowers, including allowing continuous discussion with anonymous whistleblowers, EREA has appointed Your Call to act as an eligible recipient of disclosures.

A whistleblower disclosure to Your Call may be provided on an anonymous basis or on the basis that the whistleblower’s identity is disclosed to Your Call only and kept confidential from EREA. The provision of the whistleblower’s identity to Your Call can assist in any subsequent investigation and allow Your Call to follow up and seek any clarification or feedback.

Concerns can be raised by submitting a whistleblower disclosure directly to Your Call through the following methods:

Website <https://www.yourcall.com.au/report>
24/7

Telephone **1800 316 519 relevant number**
9am and 12am, recognised business days, AEST

A whistleblower should not use the external whistleblower service to report a personal work-related grievance, a third-party complaint or a child protection incident that could be more effectively managed through EREA’s normal internal processes contained within the Internal Grievance, Complaints Handling, and Child Protection Policies.

If a whistleblower disclosure is made through the whistleblower service that does not meet the threshold of reportable wrongdoing such as that listed above in section four of Guidelines, it may be referred by EREA’s Whistleblower Disclosure Officers the appropriate delegated authority to manage and will be recorded as not being a disclosable matter. Protection of anonymity does not apply in the same strictness to disclosures that are not disclosable matters, however confidentiality will be maintained as appropriate.