Studio Schools of Australia

WHISTLEBLOWER POLICY

Version Number: 1

Date Approved: 31 May 2023

Responsible Person: Chief Financial Officer

Approved By: SSA Board

Next Review Date: 31 May 2024

1. Introduction

From 1 July 2019 schools that are bodies corporate (companies limited by guarantee, incorporated associations (if they are trading or financial corporations) or body corporates (under any law) are required to observe the provisions of the Corporations Act 2001 which relate to whistleblowing. Further information about this, for not-for-profit organisations, is available from the ASIC website at: https://asic.gov.au/about-asic/asic-investigations-and-enforcement/whistleblowing/whistleblower-protections-for-not-for-profit-organisations/

Under the new provisions in the Corporations Act a person who is an "eligible" whistleblower who makes a disclosure to an "eligible recipient" about a "disclosable matter" is entitled to certain protections, including a right to have their identity kept confidential and protection from detriment.

2. Policy statement

Studio Schools of Australia (SSA) is committed to best practice in corporate governance and observing the highest standards of ethical behaviour, integrity and accountability in delivering its services.

SSA encourages the reporting of serious concerns about misconduct or improper practices within its operations and administration. SSA provides protections and procedures so that those who make a report may do so confidently and without fear of intimidation, disadvantage, or reprisal.

3. Policy review dissemination

The policy will be reviewed by the Chief Financial Officer and approved by the Board on an annual basis. The policy will be communicated to staff annually and during employee induction at the commencement of employment. The policy will be available to all employees electronically on internal staff portal or file directory. The policy will also be available on SSA's public website.

4. Who is a whistleblower?

ASIC defines a whistleblower as 'an insider within an organisation who reports misconduct or dishonest or illegal activity that has occurred within that same organisation'.

4.1. An eligible whistleblower

In the school context the following are eligible whistleblowers.

- a member of the governing body of the school;
- an employee of the school;
- a person who supplies goods or services (paid or unpaid) to the school,
- an employee of a person who supplies goods or services (paid or unpaid) to the school;
- an individual who is an associate of the School (as defined in the Corporations Act);
- a relative or dependent (or dependents of a spouse) of any individual described above;
- parents who volunteer or have volunteered for such things as camps, canteen, or sport activities; and
- the relatives and dependents of the volunteer and of the volunteer's spouse

There is no requirement that the disclosure be related to information obtained while the person was providing the particular service they were at the school to deliver.

4.2. An eligible recipient

An eligible recipient is:

- Whistleblower Protection Officer (section 4.5)
- an auditor, or member of an audit team, of the school or a related company;
- an actuary of the school or a related company; and
- a person authorised by the school to receive disclosures.

Disclosures may also qualify for protection if they are made to ASIC, Australian Prudential Regulation Authority (APRA) or a prescribed Commonwealth authority, or if an eligible whistleblower makes a disclosure to a legal practitioner to obtain advice.

4.3. Disclosable matters

A disclosable matter is a disclosure of information which the Eligible Whistleblower has "reasonable grounds to suspect" that information relating to SSA, a studio school or a related company is:

- misconduct;
- an improper state of affairs or circumstances;
- an illegal activity (including conduct of officers and employees) – meaning activity in breach of the Corporations Act or specified financial services legislation, or an offence against any law of the Commonwealth punishable by imprisonment of 12 months or more; or
- conduct (including conduct of officers and employees) that represents a danger to the public or financial system

Examples being:

- fraud
- theft
- dealing in illicit drugs

- offering or taking a bribe
- negligence
- default,
- breach of trust
- causing or threatening detriment to a discloser
- breach of a regulatory requirement
- breach of duty
- an offence against a range of Acts
- an offence against a Commonwealth law that is punishable by imprisonment for more than 12 months.
- something representing a danger to the public or financial system.
- breaching employment law and the punishment can be imprisonment for 12 months or more.

A disclosable matter does not generally include personal work-related grievances. These are grievances that relate to a current or former employee's engagement that have implications only for that person and do not have broader implications for SSA or operating studio schools. Such matters should be reported through SSA's Grievance process.

The discloser is protected if the disclosure relates to contravention of the amendments around detriment or victimisation of the discloser, or the whistleblower is seeking legal advice in relation to the provisions of the amendment.

A disclosable matter does not include allegations of child sexual abuse. Allegations involving child abuse must be dealt with under SSA's Child Protection Policy and Code of Conduct. Allegations of child sexual abuse are subject to mandatory reporting obligations. All allegations of child abuse should be referred immediately to the Principal, one of SSA's Child Protection Officers or the Chair of the SSA Board.

4.4. Seeking further information

Prior to disclosure, it is beneficial to seek independent, confidential and objective advice on the matter to help determine whether the Whistleblowing process is the most appropriate avenue to report the matter. The Whistleblower Protection Officer can initially provide general advice confined to the explanation of the School policies and help the whistleblower understand their legal rights and responsibilities. Neither SSA or the Whistleblower Protection Officers can provide the whistleblower with legal advice.

4.5. How to make a whistleblower report

To qualify for protection under this Policy, an Eligible Whistleblower must report the Disclosable Matter to the confidential email board@studioschools.edu.au, a Whistleblower Protection Officers (section 4.6) or other Eligible Recipient (section 4.2)

Studio Schools of Australia

An eligible Whistleblower can choose to remain anonymous when making a disclosure, over the course of the investigation and after the investigation is finalised. It is important to note that anonymous disclosures can be more difficult to investigate as often they fail to disclose sufficient information to start or adequately complete an investigation. Eligible Whistleblowers are encouraged to put their name to allegations whenever possible, so a more thorough investigation can occur.

If an anonymous allegation is made, it is preferable that the report be made in writing, including date(s) and sufficient information relevant to the allegation to allow the best opportunity to complete a thorough investigation.

SSA is committed to protecting whistleblowers from victimisation or detrimental conduct. The Eligible Whistleblower is also encouraged to establish and maintain two-way communication with SSA, so follow-up questions can be asked and feedback provided, where appropriate.

4.6. Whistleblower Protection Officers

Helen Drennen Chief Executive Officer	08 9163 9601	helen.drennen@studioschools.edu.au
Sheunesu Hove Chief Financial Officer	08 9163 9610	sheunesu.hove@studioschools.edu.au

If the matter involves the Chief Executive Officer or the Chief Financial Officer then the report should be made direct to the Chair of the SSA Board via confidential email to board@studioschools.edu.au

The Chief Executive Officer, Chief Financial Officer, and Chair of the SSA Board are each designated Whistleblower Protection Officers and only they can receive disclosures that qualify for protection.

4.7. Investigations

SSA will commence an investigation into Disclosable Matters reported by an Eligible Whistleblower as soon as practicable after receipt of the report. The Whistleblower Protection Officer may, with the Eligible Whistleblower's consent, appoint a person to assist in the investigation of the report. Where appropriate, SSA will communicate with the Eligible Whistleblower regarding the progress of the investigation and/or outcome. This is subject to the privacy of those whom allegations have been made and to the extent permitted by law.

Any investigations will be conducted in an objective and fair manner, and as is reasonably possible and appropriate having regard to the context and circumstances of the Disclosable Matter.

Where a report is submitted anonymously, SSA will investigate based on the information provided.

The school's policy may describe how these are done, what records need to be kept and how the records will be securely stored.

4.8. Reasonable grounds

Reasonable grounds mean that the discloser has the suspicion that could reasonably be formed based on the facts and information available to them.

The recipient is not required to believe the suspicion.

A disclosure does not have to be seen to have been made in good faith. A disclosure must still be accepted even if it seems to have been maliciously made or made for an ulterior motive.

If a whistleblower makes a disclosure in good faith but following investigations it is not confirmed or substantiated, the matter will be closed, and no further action taken.

4.9. Abuse of the reporting process

If the disclosure is unfounded, in other words there are no reasonable grounds to suspect, the discloser is not protected by the school policy or the Corporations Act. SSA will seek legal advice before deciding a disclosure is unfounded or taking any action in relation to the disclosure.

All reports under the confidential reporting process must be in good faith. Abuse of the confidential reporting process and the making of vexatious claims will not be tolerated and will be treated as a serious breach of the SSA Code of Conduct.

5. Legal protections

SSA is committed to ensuring confidentiality in respect of all Eligible Disclosures and to the fair treatment of all employees and other individuals who may be mentioned in a report. All reports will be kept confidential and secure. SSA will not disclose a whistleblower's identity without their consent, except as noted below or unless required to do so by law.

If SSA needs to investigate a report, it may be necessary to disclose information that may lead to identification of an Eligible Whistleblower. Disclosures of such information will be made on a strictly confidential basis and SSA will take all reasonable steps to reduce the risk of identifying a reporter.

Whistleblowers are protected in two ways, confidentiality, and detriment. These protections apply if an Eligible Whistleblower makes a qualifying disclosure.

5.1. Protections available

SSA is committed to preserving the confidentiality of the identity of the whistleblower, the identity of the person who is subject to the disclosure and the investigation of the disclosure.

SSA will mitigate confidentiality risk by undertaking the following procedures:

- all personal information or reference to the discloser witnessing an event will be redacted;
- the discloser will be referred to in a gender-neutral context;
- where possible, the discloser will be contacted to help identify certain aspects of their disclosure that could inadvertently identify them;
- disclosures will be handled and investigated by qualified staff.
- all paper and electronic documents and other materials relating to disclosures will be stored securely;
- access to all information relating to a disclosure will be limited to those directly involved in managing and investigating the disclosure;
- only a restricted number of people who are directly involved in handling and investigating a disclosure will be made aware of a discloser's identity (subject to the discloser's consent) or information that is likely to lead to the identification of the discloser;
- communications and documents relating to the investigation of a disclosure will not be sent to an email address or to a printer that can be accessed by other staff; and
- each person who is involved in handling and investigating a disclosure will be reminded about the confidentiality requirements, including that an unauthorised disclosure of a discloser's identity may be a criminal offence.

There are several exceptions, such as disclosures;

- to ASIC or APRA
- to the Federal Police
- to a legal practitioner (for particular reasons)
- to certain State or Commonwealth authorities (for particular reasons)
- with consent of the whistleblower
- reasonably necessary to investigate the matter (steps must be taken to mitigate the risk of identifying the whistleblower)

SSA will seek legal advice if they are considering taking action that may identify a whistleblower.

5.2. Detriment

SSA will take all reasonable steps to protect the whistleblower from any detrimental action. An employee which is found to have subjected a whistleblower to detrimental action will be subject to disciplinary action.

Detriment has a very broad meaning and includes dismissal of an employee, injuring an employee in their employment, alteration of an employee's position or duties to their disadvantage; discrimination between an employee and other employees; victimisation of a dependent of the discloser, harassment or intimidation of a person or harm or injury to a person, including psychological harassment; damage to a person's property, reputation or business or financial position.

Processes for assessing the risk of detriment against an Eligible Whistleblower will commence as soon as possible after receiving a disclosure. Where applicable, SSA will implement strategies and take actions to protect the Eligible Whistleblower from risk of detriment.

Strategies and actions designed to mitigate Detriment risk include, but are not limited to:

- support services (including counselling or other professional or legal services) being made available to Eligible Whistleblowers to assist in minimising and managing stress, time or performance impacts, or other challenges resulting from the disclosure or its investigation;
- consideration given to perform their duties from another location;
- reassigning the Eligible Whistleblower to another role at the same level;
- modification to the workplace or the way duties are performed;
- reassigning or relocating other staff involved in the disclosable matter.

If an Eligible Whistleblower feels they have suffered detriment a complaint can be made to any Whistleblower protection Officer. SSA will investigate the complaint as a separate matter.

An Eligible Whistleblower can seek compensation and other remedies through the courts if (a) they suffer loss, damage or injury because of a disclosure and (b) SSA failed to take reasonable precautions and exercise due diligence to prevent the detrimental conduct.

Whistleblowers are not 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 based on the disclosure. Some disclosures to certain authorities such as ASIC, APRA or a prescribed Commonwealth Authority, or a public interest disclosure or an emergency disclosure are protected.

The protection does not prevent an eligible whistleblower being subject to criminal, civil or other liability for conduct that is revealed by the disclosure.

SSA will seek legal advice if considering taking detrimental action against a whistleblower.

6. Legislation

- Treasury Laws Amendment (Enhancing Whistleblower Protections) Bill 2018
- Corporations Act 2001
- Taxation Administration Act 1953
- Banking Act 1959,
- Insurance Act 1973
- Life Insurance Act 1995
- Superannuation Industry (Supervision) Act 1993