

Non-State Schools Accreditation Board

Public Interest Disclosure policy and procedures

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Public Interest Disclosure Policy

1. Statement of commitment

The Non-State Schools Accreditation Board (the 'Board') is committed to creating and maintaining an ethical, transparent and accountable organisational climate that encourages and facilitates the disclosure of information about suspected wrongdoing in the public sector. The Board considers the early identification of wrongdoing fundamental to maintaining integrity and accountability in the public sector. Facilitating public interest disclosures (PIDs) and the early identification of wrongdoing in turn assists the Board in making high-quality and transparent decisions under the *Education (Accreditation on Non-State Schools) Act 2017*.

This document demonstrates the Board's commitment to ensuring that its reporting procedures comply with the requirements of the [Public Interest Disclosure Act 2010](#) (PID Act).

When a person comes forward with information about illegal, corrupt, negligent or improper conduct or maladministration, the Board will:

- (a) ensure that any public interest disclosures (even those made anonymously) are properly assessed and, when appropriate, properly investigated and dealt with;
- (b) provide appropriate support to public officers of the Board who make a PID;
- (c) ensure that appropriate consideration is given to the interests of persons who are the subject of a PID; and
- (d) afford protection from reprisal to persons making a PID.

2. What is a Public Interest Disclosure?

A PID is a disclosure of information to a proper authority about certain types of wrongdoing or danger. Disclosures may concern public sector misconduct, wastage of public funds, suspected unlawful activity or a substantial and specific danger to health, safety or the environment.

A person, whether or not they are a public officer, may make a PID as long as they believe on reasonable grounds, their information is (or may be) true. A person can make a disclosure if they have an honest belief on reasonable grounds that they have information about wrongdoing, or they have information that shows wrongdoing (i.e. evidence), regardless of their belief.

A disclosure amounts to a PID and is covered by the PID Act even if the:

- (a) discloser reports the information as part of their work duties;
- (b) disclosure is made anonymously;
- (c) discloser has not identified the material as a PID – it is the Board's responsibility to assess information received and decide if it is a PID, and/or
- (d) disclosure is unsubstantiated following investigation – the discloser is protected when the information they provide is assessed as a PID, whether or not it is subsequently investigated or found to be substantiated.

It is an offence to make a false or misleading PID.

3. Types of PIDs that can be made

The PID Act distinguishes between PIDs made by public officers and those made by anyone else. What constitutes a PID depends on who is making the disclosure.

A public officer may make a PID if they have information about:

- (a) corrupt conduct;
- (b) maladministration that adversely affects a person's interests in a substantial and specific way;
- (c) a substantial misuse of public resources; or
- (d) a substantial and specific danger to public health or safety or the environment.

A person, whether or not they are a public officer, may make a PID if the person has information about:

- (a) a substantial and specific danger to the health or safety of a person with a disability; or
- (b) the commission of an offence or contravention of a condition imposed under a provision of legislation mentioned in Schedule 2 of the PID Act, if the offence or contravention would be a substantial and specific danger to the environment; or
- (c) reprisal because of a belief that a person has made, or intends to make a disclosure.

4. Awareness and training

The Board's PID Policy and Procedures document is published on the Board's publicly accessible website at <https://nssab.qld.edu.au>. A printed copy may be provided on request.

The policy and procedures will be reviewed annually and updated as required to ensure it meets the requirements of the PID Act and the standards issued by the Queensland Ombudsman.

The Board is committed to ensuring that its public officers are given access to training relating to its PID processes through an initial training session for all Board members, Board appointed authorised persons and Secretariat staff (as part of an induction program), with subsequent refresher training provided annually or more frequently as required in response to legislative amendments.

5. Are protections in place?

People who disclose information about serious wrongdoing receive protection under the PID Act including:

- (a) confidentiality – the discloser's name and other identifying information will be protected to the full extent possible (there are some circumstances under which this may not be possible, for example, if required for court proceedings, for administering the PID Act or other act or regulation, if consent is given by the discloser or if there are safety or welfare concerns for a person);
- (b) protection against reprisal – the discloser is protected from unfair treatment as a result of making the PID;
- (c) immunity from liability – the discloser cannot be prosecuted for disclosing the information but is not exempt from action if they have engaged in wrongdoing; and
- (d) protection from defamation – the discloser has a defense against an accusation of defamation by any subject officer.

There can be serious consequences for people or agencies who take revengeful action against a person for making a disclosure under the PID Act.

6. PID management program

The Board Chairperson is responsible for ensuring the Board's compliance with the PID Act. The Chairperson has overall responsibility for ensuring the Board develops, implements and maintains a PID management program. The Board's PID management program incorporates:

- (a) a commitment by Board members and authorised persons to the reporting of wrongdoing;
- (b) processes for the effective management of PIDs;
- (c) the creation of an environment in which the making of a PID is valued and taken seriously;
- (d) a communication strategy to raise awareness among members, authorised persons and Secretariat staff about PIDs and the Board's PID procedures;
- (e) a training strategy to give members, authorised persons, and Secretariat staff access to training about how to make a PID, information on the support available to a discloser, and advice on how PIDs will be managed;
- (f) the appointment of a specialist officer as PID Coordinator with responsibility for the administration of the PID management program and the proper management of PIDs;
- (g) ensuring effective systems and procedures are in place so that issues and outcomes from PIDs inform improvements to service delivery, business processes and internal controls;
- (h) a clearly articulated system of reporting and record keeping;
- (i) regular review of the Public Interest Disclosure Policy and Procedures and evaluation of the effectiveness of the PID management program.

Where the Board Chairperson is the subject of a PID, the Deputy Chairperson is responsible for overseeing the management of the PID. A reference to the Chairperson in the procedures is taken to be a reference to the Deputy Chairperson where applicable.

The Executive Director is the **PID Coordinator** under standard No. 1/2019 and the Executive Director's key responsibility is to administer the PID management program.

Duties of the **PID Coordinator** include:

- (a) operational oversight of the PID management program;
- (b) implementing processes to oversee PID assessments to ensure consistent application of the PID Act, and fair and reasonable decision making;
- (c) implementing processes to co-ordinate the support and protections offered to disclosers and other persons associated with PIDs (for example, witnesses);
- (d) assessment of PIDs;
- (e) assessment of risk of reprisal;
- (f) providing annual reports on the implementation and oversight of the PID management program to the Chairperson, and the Board;
- (g) analysis of PIDs to identify systemic issues and trends to inform recommendations

regarding improvements in service delivery, business processes and internal controls to the Chairperson, and the Board;

- (h) assisting the Chairperson to conduct an annual review of these procedures, and the effectiveness of the PID management program, and report to the Board; and
- (i) acting as principal point of contact with the oversight agency.

Duties of the **PID Support Officer** include:

- (a) assisting the PID Coordinator;
- (b) providing support to a discloser, subject officer or witness who is involved in the management of a PID; and
- (c) coordinating the provision of training to members and authorised officers, and officers of the Board Secretariat, about the PID Act, the standards, the procedures, and the PID management program.

The Board will provide training about the Board's obligations under the PID Act to the PID Coordinator and all officers with designated responsibility for receiving, assessing and investigating disclosures.

Public Interest Disclosure Procedures

The following procedures apply to the Board's public officers (Board members, including members of any Board committees, and authorised persons) and other persons (including members of the public) who make PIDs to the Board.

1. Management of PIDs

PIDs will be managed in accordance with these procedures and the following principles:

- (a) a PID is to be managed in a way that is consistent with the PID Act and the standards;
- (b) anonymous disclosures will be received and managed in the same way as identified disclosures, and will not be rejected because they are anonymous;
- (c) a person making the PID is offered the protections covered by sections 36 to 45 of the PID Act; and
- (d) the Board is committed to apply the principles of natural justice and procedural fairness in managing PIDs.

2. How a person may make a PID

A person may make a PID in any way, including anonymously, either verbally or in writing.

A member of the Board may be contacted for the purposes of making a PID. The names of all current members of the Board are shown on the Board's website at www.nssab.qld.edu.au.

A PID may be made by writing to the member concerned or the Executive Director, and marking the material clearly as confidential and as a PID, at the address shown below:

by email to:

nssab.admin@qed.qld.gov.au

by letter posted to:

Non-State Schools Accreditation Board
PO Box 15347
CITY EAST QLD 4002

A PID may be made in person at the Board's place of business at:

Level 8
Education House
30 Mary Street
Brisbane

The Executive Director may be contacted by telephone on (07) 3034 5956 for the purposes of making a PID verbally.

To assist in the assessment, and any subsequent investigation of a PID, disclosers are requested to:

- (a) provide contact details (this could be an anonymous email address that is created for the purpose of making the disclosure or a telephone number);
- (b) provide as much information as possible about the suspected wrongdoing, including:
 - (i) who was involved;
 - (ii) what happened;
 - (iii) when it happened;
 - (iv) where it happened;
 - (v) whether there were any witnesses, and if so who they are;
 - (vi) any evidence that supports the PID, and where the evidence is located;
 - (vii) any further information that could help investigate the PID; and
- (c) provide this information in writing.

A disclosure may be made to another proper authority with the power to investigate or remedy the matter, such as the Crime and Misconduct Commission for corrupt conduct, the Queensland Ombudsman for maladministration, the Queensland Audit Office for the substantial misuse of public resources, other government departments or members of the Legislative Assembly (MP).

3. Assessment of PIDs

The Executive Director is responsible for assessing a disclosure in accordance with the PID Act, the PID standards, the Board's public interest disclosure policy and procedures and any other relevant procedure(s).

In assessing a PID, the Executive Director is to determine:

- (a) if the person, making the PID is able to receive the protection of the PID Act;
- (b) if the disclosure concerns a matter about which a PID can be made;
- (c) if the disclosure has been made to an individual or entity who may receive a PID;

and

- (d) if the disclosure has been made in accordance with these procedures or the PID Act.

If there is doubt whether a disclosure is a PID, the Executive Director is to assume the disclosure is protected by the Act and manage the disclosure as if it is a PID.

Once the matter has been assessed as a PID, the Board will give the person who made the disclosure reasonable information about the disclosure in writing, including:

- (a) acknowledgement of receipt of a PID;
- (b) confirmation the disclosure has been assessed as a PID;
- (c) the protections under the PID Act that apply;
- (d) the discloser's obligations regarding confidentiality;
- (e) the action the Board proposes to take which could include referring the matter to another entity, or investigating;
- (f) the person's likely involvement in any action the Board proposes to take;
- (g) how the person will be kept informed of actions taken and outcomes;
- (h) the arrangements the Board has in place to support the person;
- (i) the name and contact details of the PID Support Officer assigned to the person.

If the PID has been made anonymously and the discloser has not provided any contact details, the Board will not be able to acknowledge the PID or provide any updates.

4. Referral of PIDs

If the Board decides there is another proper authority that is better able to deal with the PID, the PID may be referred to that agency. This may be because:

- (a) the PID concerns wrongdoing by that agency or an employee of that agency; or
- (b) that agency has the power to investigate or remedy the matter.

Before referring the PID to another agency, the Board will conduct a risk assessment, and will not proceed with the referral if there is an unacceptable risk of reprisal because of the referral.

It may also be necessary to refer the PID to another agency because of a legislative obligation, for example, a matter may be referred to the Crime and Corruption Commission where there is a reasonable suspicion that the matter involves or may involve corrupt conduct (as required by section 38 of the *Crime and Corruption Act 2001*).

The confidentiality obligations of the PID Act permit appropriate officers of the Board to communicate with another agency about the referral of a PID. Officers will exercise discretion in their contact with any other agency.

The Board will give the entity to which it has referred a PID reasonable information about the disclosure, including confirmation that:

- (a) the disclosure has been assessed as a PID; and

- (b) the PID has been referred by the Board as soon as practicable.

The Board will give the entity who has referred a PID to the Board reasonable information about the disclosure, including:

- (a) acknowledgement of receipt of a PID;
- (b) the action the Board proposes to take;
- (c) the results of any action taken by the Board.

5. Investigation of a PID

The Board may appoint an appropriate internal investigator for each PID investigated depending upon the type of disclosure and other relevant considerations.

The Board, if the Board considers it warranted in the circumstances, may engage an external individual with suitable training and experience to conduct an investigation of a PID.

The Board must develop terms of reference for an investigation of a PID which address the following matters:

- (a) the need to afford natural justice to persons directly affected by the disclosure;
- (b) the need to conduct an assessment of the risk of reprisal;
- (c) reasonable steps to protect the discloser and others from reprisal;
- (d) the obligation under s 65 of the PID Act to protect confidential information;
- (e) the application of standards made under s 60 of the PID Act;
- (f) the need for the investigator to document a decision as to whether and what information should be disclosed in the conduct of an investigation; and
- (g) the need for the investigator to document the decision regarding disclosure.

At the conclusion of an investigation, the Board must:

- (a) consider any systemic issues that gave rise to the PID or were identified during an investigation and any action that should be taken to address them; and
- (b) evaluate whether there is any evidence of a breach of an offence provision under the PID Act and, if so, take appropriate action.

6. Decision to take no action

The Board may decide not to investigate or deal with a PID if the Board determines:

- (a) the information disclosed has already been investigated or dealt with by another appropriate process;
- (b) the PID should be dealt with by another appropriate process;
- (c) the age of the information which is the subject of the PID makes it impracticable to investigate;
- (d) the PID is too trivial to warrant investigation and that dealing with the PID would substantially and unreasonably divert the resources of the Board; or
- (e) another entity that has jurisdiction to investigate the disclosure has notified the

Board that investigation of the disclosure is not warranted.

If the Board decides not to investigate or deal with a PID, then it must:

- (a) record the information relied on in making that decision;
- (b) record the ground or grounds upon which the decision is made; and
- (c) give written reasons of that decision to the discloser.

If the discloser is dissatisfied with the decision they may apply to the Chairperson for review of that decision within 28 days after receiving the written reasons.

The Board will implement a process for managing requests to the Chairperson for review of decisions not to investigate or deal with a PID. Requests for review must be assessed to determine if they are validly made and a review must be conducted by the Chairperson in accordance with standard No. 2/2019. Written reasons explaining the review decision will be provided.

7. Provision of support

As soon as possible after receiving a PID, an assessment will be undertaken by the Board to identify the needs of the discloser.

If it has been determined that a discloser will require support, the Board will offer an appropriate level of support which may include:

- (a) acknowledging that making the PID was the appropriate course of action by the discloser, and is valued by the Board;
- (b) making a clear statement that the Board will support the discloser;
- (c) keeping the discloser informed, including likely timeframes and how the discloser may be informed of progress and outcomes;
- (d) appointing person (separate from the investigation function) with sufficient authority to ensure the discloser has appropriate support and protection from reprisals;
- (e) regularly checking on the discloser's wellbeing, where this is warranted; and
- (f) where the health of the disclosure becomes a concern, liaising with the appropriate health services.

Information and support will be provided to the discloser until the matter is finalised.

8. Protection from reprisal

As soon as possible after receiving a PID, the Executive Director will assess the risk of a reprisal to the discloser and others associated with the discloser (including those who may wrongly be suspected of being a discloser).

If the risk is assessed as sufficiently high, the Chairperson will prepare a protection plan to protect the discloser, witnesses and others associated with the disclosure (if relevant). The discloser will be consulted as far as practicable in developing the risk management plan. The Board will review the risk management plan and its implementation on a regular basis.

The Chairperson will ensure protective measures are in place that are proportionate to the risk of reprisal, and the potential consequences of a reprisal.

The Chairperson is to ensure effective systems and procedures are in place to monitor for any signs of reprisal action.

In the event of a reprisal being alleged or suspected, the Chairperson is to act in the interest of the discloser by:

- (a) attending to the safety of the discloser or affected third parties as a matter of priority;
- (b) reviewing the risk assessment of reprisal and any protective measures needed; and
- (c) managing any allegation of a reprisal as a PID in its own right.

9. Prevention of reprisal

The Chairperson will take reasonable steps to prevent reprisal of disclosers by:

- (a) assigning a PID Support Officer to the discloser who is independent of the investigation;
- (b) providing appropriate support information to the discloser;
- (c) conducting and recording a risk assessment relating to reprisal;
- (d) if necessary, developing and implementing a risk management plan for the discloser.

10. Rights of subject officers

The Board acknowledges that for officers who are subject of a PID the experience may be stressful. The Board will protect their rights by:

- (a) assuring them that the PID will be dealt with impartially, fairly and reasonably in accordance with the principles of natural justice;
- (b) confirming that the PID is an allegation only until information or evidence obtained through an investigation substantiates the allegation; and
- (c) providing them with information about their rights and the progress and outcome of any investigation.

Persons who are the subject of an allegation may seek assistance from their legal representative or union. If they are departmental employees, they may utilise the services of the department's employee assistance program for advice and counseling.

Information and support will be provided to a subject officer until the matter is finalised.

The Board will take action to ensure where possible the identity of persons who are subject of a disclosure and the details of the disclosure remain confidential.

11. Confidentiality concerning a PID

In handling a PID, confidentiality is important both for protecting the discloser and subject officers from reprisal as well as other persons affected by the PID.

The identity of the discloser, the nature of the disclosure, the subject matter of the disclosure and the identity of the Board member or authorised person is to be treated as confidential information.

This information is not to be disclosed to another person, except in accordance with section 65

of the PID Act or other legislation.

12. Right to review

If a discloser or subject officer is dissatisfied with the outcome of the PID management process a request may be made to the Board for an internal review of the Board's dealing with the PID.

A request for an external review may be made to the Queensland Ombudsman.

13. Recording and reporting PIDs

The Chairperson is responsible for:

- (a) keeping proper records of PIDs; and
- (b) overseeing implementation of record keeping procedures and reporting arrangements, including:
 - (i) the conduct of annual audits of records;
 - (ii) limitation of access to records to the PID Coordinator and at least two officers;
 - (iii) submission of mandatory data to the oversight agency; and
 - (iv) the establishment of procedures and processes for record-keeping.

Each PID is to be recorded and reported:

- (a) as a separate PID, irrespective of whether two or more PIDs are made about an identical matter; and
- (b) otherwise in a way that is consistent with section 29 of the PID Act and standard No. 3/2019.

In accordance with its obligations under the PID Act and the *Public Records Act 2002*, the Board will ensure that:

- (a) accurate data is collected about the receipt and management of PIDs
- (b) anonymised data is reported to the Office of the Queensland Ombudsman in their role as the oversight agency, through the PID reporting database.

Records about disclosures, investigations, and related decisions will be kept secure and accessible only to appropriately authorised people involved in the management of the PID.

The PID Coordinator will give the information required by the PID Act and the standards to the oversight agency.

14. Use of data arising from PIDs

The Board is to take account of summary information about any PIDs provided when considering improvements to systems, service delivery, business processes, internal controls, policies and procedures.

The Chairperson, or as the case may be the Deputy Chairperson, is to provide sufficient summary information about any PIDs to the Board to inform the Board's consideration of improvements.

15. Report to journalist

A person may make a disclosure of information that was the subject of a PID to a journalist if:

- (a) the person made the PID to the Board in accordance with the PID Act; and
- (b) the Board or an entity to which the PID was referred:
 - (i) decided not to investigate or deal with the PID;
 - (ii) investigated the PID but did not recommend the taking of any action in relation to it; or
 - (iii) did not notify the person, within 6 months after the date the PID was made, whether or not the PID was to be investigated or dealt with.

Disclosure to a journalist under section 20 of the PID Act is treated as a PID and the person retains the protections under the PID Act.

16. Related policies and procedures

- (a) *Policy for managing compliance concerns raised about non-State schools, governing bodies, or unaccredited places*
- (b) *Procedures for managing compliance concerns raised about non-State schools, governing bodies, or unaccredited places*
- (c) *Policy for managing complaints about the Board, a committee of the Board, a member of the Board or committee, or a person appointed by the Board as an authorised person*
- (d) *Procedures for managing complaints about the Board, a committee of the Board, a member of the Board or committee, or a person appointed by the Board as an authorised person;*

A copy of the above listed policies and procedures is available on the Board's website (www.nssab.qld.edu.au) under the 'Compliance concerns and Complaints' tab.

17. Definitions

Terms defined in the PID Act have the same meaning in these procedures and the following additional definitions also apply.

Accreditation Act 2017 means the *Education (Accreditation of Non-State Schools) Act 2017*.

authorised person means a person appointed by the Board under the Accreditation Act 2017.

Board means the Non-State Schools Accreditation Board established under the Accreditation Act 2001 and continued in existence under the Accreditation Act 2017.

Board Secretariat means the part of the department that provides support to the Board by authority of section 120 of the Accreditation Act 2017.

Chairperson is the Chairperson of the Board under the Accreditation Act 2017 and chief executive officer of the Board under the PID Act.

committee of the Board means a Board committee established under the Accreditation

Act 2001 and the Accreditation Act 2017.

corrupt conduct has the meaning given in section 15 of the *Crime and Corruption Act 2001*.

department means the Department of Education.

Deputy Chairperson is the Deputy Chairperson of the Board under the Accreditation Act 2017.

Executive Director means the Executive Director of the Board Secretariat.

member means a member of the Board, or a committee of the Board.

oversight agency means the Office of the Ombudsman established under the *Ombudsman Act 2001*.

PID Act means the *Public Interest Disclosure Act 2010*.

PID means a public interest disclosure under the PID Act.

procedures mean the procedures made by the Chairperson under section 28 of the PID Act.

proper authority means a person or organisation that is authorised under the [Public Interest Disclosure Act 2010](#) to receive disclosures.

standards mean the following standards made by the oversight agency under section 60 of the PID Act:

- (a) standard No. 1/2019 (Public Interest Disclosure Management Program), effective date 1 March 2019;
- (b) standard No. 2/2019 (Assessing, Investigating and Dealing with Public Interest Disclosures), effective date 1 March 2019; and
- (c) standard No. 3/2019 (Public Interest Disclosure data Recording and Reporting), effective date 1 March 2019.

subject officer means an officer who is the subject of allegations of wrongdoing made in a disclosure.

The legislative and policy basis for these procedures is the PID Act and the standards.

These procedures are to be read in the context of the PID Act and standards but where there is an inconsistency between these procedures and either the PID Act or the Standard, the PID Act or Standard applies to the extent of the inconsistency.