



CONFLICT OF INTEREST POLICY

Marist Schools Australia Ltd

1. PREAMBLE

Marist Schools Australia Ltd (“MSA Ltd”) is a not-for-profit company limited by guarantee and a charity registered with the Australian Charities and Not-for-Profits Commission (ACNC), with the purpose of advancing education and advancing religion.

MSA Ltd aims to strengthen the governance of the Education Ministry of the Trustees of the Marist Brothers. MSA Ltd governs, manages, operates and conducts registered non-government schools in Australia (including in some cases registered school boarding premises) (**Colleges**). MSA Ltd is particularly focused on ensuring that the Colleges follow all principles of good governance to maintain compliance with Australian legislation including the Education Legislation and provide a safe environment for our students.

2. OBJECTIVE

MSA Ltd is committed to high standards of ethical conduct and ensuring compliance with the ACNC Governance Standards, Australian legislation and the Education Legislation.

The purpose of this Policy is to outline the framework for identification, disclosure and management of conflicts of interests relating to all Responsible Persons of MSA Ltd in order to protect the integrity of MSA Ltd, manage risk and observe legislative requirements relating to conflicts of interest.

This Policy supplements any additional obligations arising under an employee’s contract, Codes of Conduct or under another policy, including a Policy specific to a College or otherwise relating to other employment or paid activities, disclosures of relationships (including related party transactions) and child safety disclosures.

The Board of MSA Ltd aims to ensure that Directors and other Responsible Persons are aware of their obligations to disclose any conflict of interest and that there are effective mechanisms for effectively managing conflicts.

3. INTERPRETATION

(a) The following definitions are used in this document:

“**ACNC**” means the Australian Charities and Not-for-profits Commission established under the ACNC Act.

“Association” means the unincorporated association known as The Marist Association of St Marcellin Champagnat which is comprised of Lay, Religious and Clerics and is an association of Christ’s faithful.

“Board of Directors” means collectively the members of the Board of MSA Ltd. At a meeting of the Board of Directors (Board meeting), the Board of Directors comprises the members of the Board of Directors assembled at the meeting.

“Charity Legislation” means the laws of Australia applicable to charities and not-for-profit entities from time to time including the *Australian Charities and Not-for-profits Commission Act 2012* (Cth) as amended from time to time.

“Colleges” means the Registered Non-Government Schools (including in some cases school boarding premises and the Registered School Boarding Premises) located in and operating in Australia which are listed in Schedule 1 and such other colleges as the Company may establish or acquire and govern, manage and conduct (from time to time) being educational institutions offering primary and secondary schooling.

“Delegations” means the act of conferring functions, duties, roles, authority, powers on another so that another can act on your behalf.

“Delegated Authority” means the authority of the Board of Directors that has been delegated to a Delegate.

“Education Legislation” means the laws of Australia applicable to MSA Ltd Ltd including the Colleges, including separately as Registered Non-Government Schools, school boarding premises and as Registered School Boarding Premises under MSA Ltd’s proprietorship, from time to time including the Australian Education Act 2013 (Cth), the Australian Education Regulation 2013 and the Education Acts (by whatever name) and Regulations made under those Acts, applicable in the states and territories in which the Colleges operate, as amended from time to time. The Education Legislation governs registration, regulation and funding of the Colleges. The Education Legislation includes legislative instruments made under Acts and Regulations such as Ministerial Order 1359 which applies to the Colleges located in and operating in Victoria, the Education and Training Reform Act 2006 (Vic) in so far as it applies to the Colleges including separately as the Registered Non-Government Schools and as the Registered School Boarding Premises located in and operating in Victoria and other instruments, ministerial orders, guidelines and registration requirements applicable in the states and territories in which the Colleges operate, as amended from time to time.

“Executive Management” means the National Director MSA, Regional Directors, MSA Head of Business and all other members of the MSA executive as determined by the National Director MSA.

“Institute” means the Catholic Religious Institute known as the Marist Brothers (also known as the Marist Brothers of the Schools).

“Marist Schools Australia” or “MSA” is the executive office operated by the Company to support the Colleges in a manner that fulfils the Marist mission and vision of the Company in its work and activity in Catholic education. Spirituality, faith formation,

contemporary educational practice, human resource leadership, financial planning and management, administration, child safeguarding, and compliance support are key features of MSA's support for the Colleges. Marist member schools are supported by MSA through a range of paid programmes, resources and activities. The Executive Management of the Company is comprised of key positions of leadership and responsibility who are engaged in Marist School Australia.

"MASMC Ltd" means Marist Association of St Marcellin Champagnat Limited (MASMC) ACN 653 757 870.

"Member" and **"Member of the Company"** means the Member of MSA Ltd being the sole Member of the Company Marist Association of St Marcellin Champagnat Ltd (MASMC) ACN 653 757 870.

"Members of MASMC Ltd" means the members of MASMC Ltd ACN 653 757 870.

"Province" means the Australian Province of the Institute or, if there is no Australian Province of the Institute, such administrative unit, province or region of the Institute that includes Australia.

"Provincial" is the leader of the Province.

"Provincial Councillor" means a member of the leadership team of the Province, for the time being (by whatever name then called).

"Registered Non-Government Schools" means the registered non-government schools located in and operating in Australia which are listed in Schedule 1 and such other registered non-government schools as the Company may establish or acquire and govern, manage and conduct from time to time.

"Registered School Boarding Premises" means the registered school boarding premises located in and operating in Australia and listed in Schedule 1 and such other registered school boarding premises as the Company may establish or acquire and govern, manage and conduct from time to time, being registered school boarding premises offering boarding facilities for students of an associated College as indicated in Schedule 1.

"Responsible Persons" means Responsible Persons of MSA Ltd as defined in the MSA Ltd Responsible Persons Policy, and in any case, includes:

- (i) MSA Ltd and any person who is concerned in, or takes part in, the management of MSA Ltd or each person that exercises decision making authority within or over MSA Ltd, including Executive Management
- (ii) each person with decision making responsibility in the governance structure of MSA Ltd including decision making involving managing the operation of each College or its finances. This includes Directors of MASMC Ltd and MASMC Ltd Members, as well as any other persons or entity vested with reserve powers in accordance with the Constitution which constitute decision making responsibility in the governance structure
- (iii) each member of the governing body of MSA Ltd, being the Board of Directors of MSA Ltd,

- (iv) the principal or head of each College, deputy principals and each of the Colleges' business manager(s); and/or
- (v) any other person who by the person's conduct assumes a position of authority over the governance or management of MSA Ltd and/or the College(s) such as members of any Committees established by the Board of Directors of MSA Ltd in accordance with the Constitution;

"Secretary" means any person appointed for the time being to perform the duties of a Secretary of MSA Ltd.

"Trustees of the Marist Brothers" means Trustees of the Marist Brothers ARBN 064 875 510, a body corporate pursuant to the provisions of the *Roman Catholic Church Communities' Lands Act 1942 (NSW)*.

- (b) This Policy should be read in conjunction with the MSA Ltd Constitution and the policies and legislation in **Schedule 2** as amended from time to time. In particular, this Policy should be read in conjunction with the MSA Ltd Responsible Persons Policy and the MSA Ltd Related Transactions Policy. Where this policy is inconsistent with any relevant Australian legislative provision, the legislation prevails to the extent of the inconsistency.
- (c) Other expressions used in this policy but not defined have the same meanings as they are given in the MSA Ltd Constitution.

4. SCOPE

This Policy applies to Responsible Persons as defined in the MSA Ltd Responsible Persons Policy, as amended from time to time.

The Responsible Persons of MSA Ltd, include:

- (i) Trustees of the Marist Brothers (Provincial plus 4-5 Provincial Councillors)
- (ii) Directors of MASMC Ltd (which consists of the Provincial = canonical leader of the Australian Province of the Institute Marist Brothers; three Provincial Councillors = member of the leadership team of the Provincial)
- (iii) Members of MASMC Ltd (consists of Provincial, three Provincial Councillors and 2 laypersons)
- (iv) Directors of MSA Ltd
- (v) Members of Board Committees
- (vi) CEO/National Director of MSA Ltd
- (vii) Regional Directors (VIC, SA, WA, QLD, NT, NSW and ACT)
- (viii) Director of Mission and Life Formation
- (ix) Child Safeguarding & Compliance Officer

- (x) Head of Business
- (xi) National Coordinator Marist Youth Ministry
- (xii) Each College Principal, Deputy Principals; Business Managers (College based) and other College executives and staff with decision making authority over the finances or management of the College
- (xiii) Any other person who by their conduct assumes a position of authority over the governance or management of MSA Ltd and/or the Colleges, including school boarding premises.

Reference to conflict of interest in this Policy includes actual, potential or perceived conflicts of interest and duty.

5. LEGISLATIVE REQUIREMENTS

- (a) There are duties placed on Directors of MSA Ltd as Responsible Persons under ACNC governance standard to avoid conflicts and to act in the best interest of MSA Ltd in performing Board duties. These duties are also reflected in the **Directors' Code of Conduct**.
- (b) MSA Ltd as the proprietor of Registered non-government schools is required to meet specific not-for-profit requirements as defined under the Education Legislation. This requirement is generally a stricter standard than what is applied to other registered charities (that do not operate registered non-government schools and registered school boarding premises). Accordingly, MSA Ltd must meet requirements relating to conflict of interest management under Education Legislation. To ensure that these strict not for profit requirements have been met, the Board of MSA Ltd has in place a **Related Party Transactions Policy**.
- (c) All Responsible Persons with delegated authority to enter into transactions and agreements on behalf of MSA Ltd or its Colleges must adhere to this Related Party Transactions Policy to manage inherent conflicts arising from entering into related party transactions.
- (d) Given that the Colleges operate in different jurisdictions, MSA Ltd has adopted this Policy in accordance with the strictest standards across the jurisdictions, with particular reference to the requirements in NSW and Victoria.
- (e) Specific regulatory requirements for managing conflicts of interest in regards to Colleges registered in NSW are set out in **Schedule 3**. Specific regulatory requirements relating to not for profit and managing conflicts of interest in regards to Colleges registered in Victoria are contained in **Schedule 4**.
- (f) A separate Conflicts of Interest Policy may be implemented to govern the disclosure and management of conflicts other than for Responsible Persons specific to each College (such as in respect of gifts and benefits). Such Policy must be approved by the Board and meet any additional requirements in the jurisdiction pursuant to paragraph. The Board

will ensure that these policies (including any guidelines for practices and procedures in dealing with conflicts of interest) are not inconsistent with and comply with this Policy.

6. DEFINITION OF CONFLICTS OF INTERESTS

A conflict of interest occurs when a person's personal interests (including financial and relationship influences) conflicts or appears to conflict with their responsibility to act in the best interests of MSA Ltd. Personal interests include direct interests as well as those of family, friends, or other organisations a person may be involved with or have an interest in (for example, as a shareholder or a member or an employee). A personal interest may be pecuniary or non-pecuniary.

It also includes a conflict between a person's duty to MSA Ltd and another duty that the person has (for example, to another charity or organisation). A conflict of interest may be actual, potential or perceived and may involve financial or non-financial control, benefit or advantage.

These situations present the risk that a person will make a decision based on, or affected by, these influences, rather than in the best interests of MSA Ltd and must be managed accordingly.

A conflict of interest may be not only direct and/or actual, but also **potential** or **perceived**.

A **potential** conflict of interest is one which is foreseeable from the circumstances, but has not yet become actual.

A **perceived** conflict of interest is one where the circumstances indicate to a reasonable person that a Responsible Persons' duty to MSA Ltd is affected, whether there is an actual conflict of interest or not.

Whether a conflict of interest (direct, actual, potential or perceived) exists depends on the circumstances.

6.1 RESPONSIBILITIES

- (a) The Board of Directors is responsible for:
 - (i) Establishing a system for identifying, disclosing and managing conflicts of interest across MSA Ltd in accordance with this Policy;
 - (ii) Monitoring compliance with this Policy; and
 - (iii) Reviewing this Policy on an annual basis, following the annual general meeting, to ensure that the Policy is operating effectively.
- (b) All Responsible Persons have a continuing responsibility for avoiding, declaring and managing any conflict of interest which applies to them.
- (c) MSA Ltd must ensure that its Directors, as Responsible Persons (as defined by the Charity Legislation) are aware of the ACNC Governance Standards, particularly Governance Standard 5, and that they disclose any direct, actual, potential or perceived conflicts of

interests as required by Governance Standard 5 in addition to conflict of interest management obligations arising from Education Legislation.

- (d) Given the governance structure of MSA Ltd and the various related parties, the Board of MSA Ltd must ensure that all Responsible Persons, in particular MSA Ltd Directors, the Directors of the Member of the Company (including the Members of MASMC Ltd), are aware of the relevant Australian legislation and in particular the Education Legislation under which MSA Ltd operates. To manage any inherent conflicts and to ensure that MSA Ltd does not contravene any not for profit requirements all Responsible Persons must abide by the **Related Party Transactions Policy**.
- (e) The MSA Board or its delegate is responsible for bringing this Policy to the attention of any prospective Director, the Chief Executive Officer, the Secretary and any other prospective Responsible Persons, except for a prospective member of the Company.
- (f) The MSA Board is responsible for bringing this Policy to the attention of any prospective member of the Company.
- (g) Any Board Committees established pursuant to clause 23 of the MSA Constitution, is required to include in its Terms of Reference a procedure for disclosing and managing conflict of interest to ensure that all Board Committee members as Responsible Persons of MSA Ltd declare and manage conflicts of interest.
- (h) Schedule 6 of this Policy outlines procedures for disclosing and managing conflicts relating to Board Committee members, MSA Executive Management and school based Responsible Persons.

7. IDENTIFICATION AND DISCLOSURE OF CONFLICTS OF INTEREST

7.1 IDENTIFICATION AND DISCLOSURE OF CONFLICTS OF INTEREST OF DIRECTORS

- (a) As part of the Director appointment process, Directors of MSA Ltd are required to disclose to the Secretary any direct, actual, perceived or potential conflicts of interest with MSA Ltd including where any such personal interests arise as a consequence of the Director's previous or current employment, their volunteering activities and other activities. Such disclosure is required also if the personal interest (which gives rise to a direct actual, perceived or potential conflict of interest) is the personal interest of a close associate or related entity of the Director.
- (b) In addition to the disclosure required at paragraph (a), disclosure of conflicts of interest is a standing agenda item of the Board. Directors must disclose the nature and extent of any direct, actual, potential or perceived conflict of interest (including a pecuniary conflict of interest) in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution):
 - (i) to the other Directors, or
 - (i) if all of the Directors have the same conflict of interest, by notice in writing to the Member of the Company as soon as reasonably practicable.

- (c) The disclosure of a conflict of interest by a Director and the outcome must be recorded in the minutes of the meeting. These disclosures and the outcome must be notified to the Secretary.
- (d) Once a direct, actual, potential or perceived conflict of interest is identified or disclosed, it must be notified to the Secretary and be entered into MSA Ltd's Register of Interests (see example in **Schedule 5**).

7.2 CONFIDENTIALITY OF DISCLOSURES

The Board of Directors; the Member of the Company and those with delegated authority for dealing with and recording such matters (i.e. Secretary and College Principals) will have access to the information disclosed in the Register of Interests. The Register of Interest and disclosures will be treated confidentially.

8. ACTION REQUIRED FOR MANAGEMENT OF CONFLICTS OF INTEREST

8.1 MANAGEMENT OF CONFLICTS OF INTEREST OF DIRECTORS

- (a) Subject to clause 8.1(c), each Director who has a direct, actual, potential or perceived personal interest in a matter that is being considered at a meeting of Directors (or that is proposed in a circular resolution) must not:
 - (i) be present at the meeting while the matter is being discussed,
 - (ii) be counted in a quorum in relation to that matter; or
 - (iii) vote on the matter.
- (b) In accordance with the Constitution of MS Ltd, the quorum for consideration at a Board of Directors meeting of a matter in which one or more Directors have a direct, actual, potential or perceived personal interest is three Directors (excluding the conflicted Director/s) who are entitled to vote on any resolution that may be considered at the meeting in relation to that matter.
- (c) Conflicted Director(s) may still be present and vote if:
 - (i) their interest relates to an insurance contract that insures, or would insure, the Director against liabilities that the Director incurs as an Director; and
 - (ii) their interest relates to a payment by MSA Ltd for directors and officers insurance premiums, or any contract relating to an indemnity that is allowed under the Act or this Constitution.
- (d) In exceptional circumstances, such as where a conflict is very significant or likely to prevent a Director from regularly participating in discussions, the Board of Directors may consider whether it is appropriate for the person conflicted to resign from the board.

- (e) Except in the instances set out in clause 8.1(c), where all Directors are equally conflicted, the issue must be referred to the Member of the Company for determination.
- (f) Refer to paragraph 10 of this Policy for guidance on action that can be taken to manage conflicts of interest relating to Directors.

8.2 CONFLICTS OF INTEREST OF THE MEMBER OF THE COMPANY

- (a) Where the Member of the Company (including any one or more of its directors and its members) may have a direct, actual, perceived or potential conflict of interest, the nature of this conflict of interest must be disclosed to the Secretary under this Policy and the Secretary must record this conflict of interest in the Register of Interests. The Member of the Company must refer to the Related Party Transaction Policy and the Responsible Persons Policy when considering the issue which gives rise to the direct, actual, perceived or potential conflict of interest.
- (a) Where the Members of MASMC Ltd are exercising a reserved power in accordance with the Constitution, one or more of the Members of MASMC Ltd may have a direct, actual, perceived or potential conflict of interest. In these circumstances, the nature of this conflict of interest must be disclosed to the Secretary under this Policy and the Secretary must record this conflict of interest in the Register of Interests. The Members of MASMC Ltd must refer to the Related Party Transaction Policy and the Responsible Persons Policy when considering the issue which gives rise to the direct, actual, perceived or potential conflict of interest.
- (b) If the Members of MASMC Ltd, the Member of the Company or the Secretary determines there is a potential/perceived/actual conflict of interest, the Secretary or delegate will prepare and propose a conflict of interest management plan in consultation with the relevant group.
- (c) Where all of the Members of MASMC Ltd share a conflict, the Members of MASMC Ltd should refer to this Policy and Governance Standard 5 to ensure that proper disclosure occurs, and work with the Member of the Company and/or the Board of Directors to deal with the Conflict in accordance with any relevant provisions in the Related Party Transaction Policy.
- (d) Where all directors on the board of the Member of the Company share a conflict, the directors should refer to this Policy and Governance Standard 5 to ensure that proper disclosure occurs and work with the Members of MASMC Ltd and/or the Board of Directors to deal with the conflict in accordance with any relevant provisions in the Related Party Transaction Policy.
- (e) It is acknowledged that the Member of the Company and its board of directors, the Members of MASMC Ltd and MSA Ltd are Related Parties (as defined in the Related Party Transaction Policy) and not all transactions between these entities will necessarily involve a conflict of interest but nevertheless must only proceed in accordance with the Related Party Transactions Policy.

8.3 CONFLICTS OF INTEREST OF OTHER RESPONSIBLE PERSONS – GENERAL PRINCIPLES

- (a) if at any time a Responsible Person (other than a Director, the Member of the Company (including a member of the board of directors of MASMC Ltd or any of the Members of MASMC Ltd), or a member of a MSA Ltd Board Committee) believes that he or she may appear to be unable to maintain professional objectivity on any issue (whether or not this constitutes a direct actual, perceived or potential conflict of interest), because of a personal situation, employment or for any other reason, the person must notify the Secretary, or the Principal if the person is an employee at a College, and must not vote on the matter or be present when the issue is being considered.
- (b) When Responsible Persons (other than Directors and Member(s) of the Company) identify that they have an actual, potential or perceived conflict of interest, the person must:
 - (i) immediately notify the Secretary, or if the person is an employee at a College the Principal, and in doing so provide all relevant facts. The Secretary must then enter details of the conflict into MSA Ltd’s Register of Interests and notify the National Director MSA or if the conflict involves the National Director MSA the Secretary must notify the Chair of the Board of the conflict or if the conflict involves the Principal of a College the Secretary must notify the MSA Regional Director for the College. The Principal or their delegate will enter details of the College employee’s conflict in the College Register of Interest; and
 - (ii) the Chair of the Board, National Director MSA, MSA Regional Director or Principal, as required, will provide the Responsible Person with a written determination of actions necessary to manage the conflict;
- (g) The Responsible Person, except an employee at a College, must provide the Secretary with a copy of the determination, once obtained to enable the Secretary to record in the MSA Ltd Register of Interest how the conflict of interest will be managed. The College Principal or their delegate will record the details of the determination regarding the College employee in the College Register of Interest.
- (h) The Secretary must maintain the record of all of the actual, potential or perceived conflicts of interest reported to the Secretary under this clause 8.3 in the same manner the Secretary is required to maintain the records of reported conflicts of interest under clause 7.1.
- (i) The Secretary must provide a report of new conflicts of interest recorded in the MSA Ltd and Colleges’ Registers of Interest to the board of directors each quarter.
- (j) Additional requirements for the disclosures of conflicts of interest for specific categories of Responsible Persons are set out in **Schedule 6**.

9. REGISTERS OF INTEREST

- (a) The Register of Interests for MSA Ltd must be maintained by the Secretary, who will record information relating to a conflict of interest relating to all Responsible Persons, including College Principals but excluding College based Responsible Persons. The Register must include information relating to the conflict (including the nature and extent of the conflict of interest and any steps taken to address it).
- (b) Records relating to conflicts of interest must be retained for at least 7 years from when the conflict of interest ceases to be relevant, before they are archived or destroyed.
- (c) The Principal of each College (or delegate) is responsible for ensuring a register of Conflict of Interest for College based Responsible Persons (other than the College Principal) is maintained for that College. The Register must include information relating to the conflict (including the nature and extent of the conflict of interest and any steps taken to address it). This must be provided to the Secretary on request.

10. WHAT ACTION SHOULD BE CONSIDERED - DECIDING WHAT ACTION TO TAKE

- (a) In deciding what approach to take, the Board of Directors, the Member(s) of the Company or the person determining how a conflict of interest will be resolved under clause 8, as the case may be, must consider the following:
 - (i) Whether the conflict needs to be avoided or simply documented.
 - (ii) Whether the conflict will realistically impair the disclosing person's capacity to impartially participate in decision-making.
 - (iii) The alternative options to avoid the conflict.
 - (iv) MSA Ltd's purpose, objects and resources.
 - (v) The possibility of creating an appearance of improper conduct that may impair confidence in, or the reputation of, MSA Ltd.
- (b) All conflicts are managed and resolved based on the following strategies:

Record and disclose	Ensure all information surrounding the conflict of interest has been disclosed and documented appropriately.
Restrict	Restrictions are placed on the Responsible Person's involvement in the matter or the scope of the work is reformulated or there is a restriction on access to certain information.
Recruit and monitor	A non-conflicted third party is used to oversee part or all of the process that deals with the matter.

Remove	The Responsible Person removes themselves, or is removed, from the matter. For example, in a situation in which a job applicant is related to a member of the recruitment panel, a conflict of interest management plan might be for that panel member to step down from their position during the selection process for that applicant only.
Relinquish	The Responsible Person relinquishes the private interest that is creating the conflict.
Resign	In some instances where the conflict is ongoing and permanent and the conflict cannot be managed using one of the other options above, the Board can ask you to step down. This can be temporary or permanent.

(c) The Board of Directors and Members of the Company have determined that MSA Ltd will at all times:

- (i) Contract for goods and services in a manner that will avoid any conflict of interest or perceived conflict of interest.
- (ii) Avoid any conflict of interest in relation to employment of staff.
- (iii) Require full disclosure from Directors and Members of the Company in situations where they, their relatives, partners or friends, may benefit financially, or in any other way, from a decision made by the Board of Directors or Members of the Company.
- (iv) Require due diligence and reporting to the Board of Directors for any business-related transactions between MSA Ltd and the Trustees of the Marist Brothers and the Association to avoid any perceived conflict of interest.

(d) Responsible Persons may not do any of the following:

- (i) Apply MSA Ltd's property either for their personal benefit or the benefit of a relative, partner or friend, or any organisation in which they are involved as an employee, member, Director, to benefit from their position on the Board of Directors and/or as an Member of the Company without the authority of the full Board of Directors or all the Members of the Company (as the case may be).
- (ii) Benefit financially, or in any other way from the outcome of a decision made by the Board of Directors, Member of the Company (including the Members of MASM Ltd and the board of directors of the Member of the Company)
- (iii) Cause any relative, partner or friend, or any organisation in which they are involved as an employee, member, Director, to benefit from their position on the Board of Directors or as a director or as a member of the Member of the Company.

- (iv) Make unauthorised use of confidential information belonging to MSA Ltd.
 - (v) Intentionally gain an advantage (directly or indirectly) for any person or causes detrimental to MSA Ltd.
- (e) All Responsible Persons will have a conflict of interest if they do any of the things listed in clause 10(c) and must not do any of those things.
- (f) The approval of all matters relating to related parties must be in accordance with the **Related Party Transactions**.

11. COMPLIANCE WITH THIS POLICY

- (a) If a person suspects that a Responsible Person has failed to disclose a conflict of interest they may discuss the potential conflict with the person in question and if they are not satisfied, they must notify the Board of Directors of the potential conflict.
- (b) If the Board of Directors has reason to believe that a person subject to this Policy has failed to comply with it, it will investigate the circumstances.
- (c) If it is found that this person has failed to disclose a conflict of interest or is failing to act in accordance with a determination made by the Board or relevant delegate (i.e. National Director, Regional Director or College Principal) the Board of Directors may take action against them. This may include seeking to terminate their employment or engagement with MSA Ltd or other sanctions that may be appropriate in the circumstances.

12. MONITORING AND REVIEW

The Board of MSA Ltd will review this Policy and the Register of Interests annually to ensure that the actions for managing conflicts of interest are adequate. Recommendations for improvement will be reported to MSA Ltd by the National Director MSA.

Version	2
Approved by	Board of MSA Ltd
Policy Owner	National Director
Date Approved	October 2022
Next Review Date	October 2023

Schedule 1

Colleges

- (a) Sacred Heart College, Adelaide SA, ABN 52 010 674 805:
 - (i) Registered Non-Government School
 - (ii) associated school boarding premises
- (b) Newman College, Churchlands WA, ABN 34 822 196385
- (c) Assumption Catholic College, Kilmore VIC, ABN 85 917 803 177:
 - (i) Registered Non-Government School
 - (ii) associated Registered School Boarding Premises, registered under the Education and Training Reform Act 2006 (Vic) and the Education and Training Reform Regulations 2017 as amended from time to time
- (d) Lavalla Catholic College, Traralgon VIC, ABN 74 453 482 885
- (e) Red Bend Catholic College, Forbes NSW, ABN 70 721 984 562:
 - (i) Registered Non-Government School
 - (ii) associated school boarding premises
- (f) Marcellin Catholic College, Bulleen VIC, ABN 77 413 001 496
- (g) Marist College Bendigo, Bendigo VIC, ABN 48 218 856 996
- (h) Marist College Canberra, Pearce ACT, ABN 62 466 078 521
- (i) St Joseph's College, Hunters Hill NSW, ABN 75 236 399 077:
 - (i) Registered Non-Government School
 - (ii) associated school boarding premises
- (j) St Gregory's College, Campbelltown NSW, ABN 18 940 977 322:
 - (i) Registered Non-Government School
 - (ii) associated school boarding premises
- (k) Marist College Ashgrove, Ashgrove QLD, ABN 13 937 359 780:
 - (i) Registered Non-Government School
 - (ii) associated school boarding premises.
- (l) The John Berne School, Lewisham NSW, ABN 68 159 188 251

Schedule 2

Legislation

REFERENCES

All Australian legislation governing the conduct of primary and secondary non-government schools and student boarding facilities and other activities of the Colleges governed by MSA Ltd and all Australian legislation governing charities including:

Education (Accreditation of Non-State Schools) Act 2017 (QLD)

Education Act 1990 (NSW)

Education Act 2004 (ACT)

School Education Act 1999 (WA)

Education and Children's Services Act 2019 (SA)

Education and Training Reform Act 2006 (Vic)

Australian Education Act 2013 (Cth)

ACNC Act 2012 (Cth_ and ACNC Regulation 2013

Corporations Act 2001 (Cth)

Policies of MSA Ltd being:

Responsible Persons Policy

Board of Directors Code of Conduct

Related Party Transactions Policy and Register

Delegations Policy and Matrix;

Governance Charter;

Finance, Audit and Risk Committee Charter

Schedule 3

NSW

Section 83C of the Education Act 1990 (NSW) requires all schools to operate on a “not-for-profit” basis within the meaning of the Act in order to be eligible for funding from the NSW Government.

The Not-For-Profit Guidelines for Non-Government Schools (June 2019) in NSW provide the general guidelines for satisfying the NSW Government Department of Education that the school does not operate for profit.

Section 7 of the Guidelines provides that:

Schools/proprietors may be required to demonstrate their compliance with section 83C of the Act if they are subject to an investigation under section 83H or if they receive a direction under section 83I of the Act.

In general, schools/proprietors should be able to demonstrate compliance by ensuring the following types of policies and business records are kept and made available if requested by the Department:

- *implementation of appropriate financial controls and governance systems to manage the financial affairs of a school;*
- *evidence that financial transactions and decisions are transparent, at arm’s length and of reasonable market value;*
- *evidence that conflicts of interest between personnel and related entities are being appropriately managed in relation to school operations; and,*
- *records of audited annual financial statements*

Schools/proprietors may be required to maintain records to meet other legislative/regulatory requirements (e.g. for the ATO, ACNC, ASIC and NESAs) and as part of internal school management practices. In many cases these records can be used to demonstrate compliance with the not-for-profit requirements under the Act.

MSA Ltd recognises that registered non-government schools in NSW are required to have in place and implement policies and procedures in relation to dealing with conflict of interest with specific reference to:

- (d) an overarching statement defining conflict of interest within the context of the school's governance structure;
- (e) documented processes for:
 - (i) an annual declaration by each ‘responsible person’ for the school in relation to any actual, perceived or potential conflict;

- (ii) maintaining records of the annual declaration of each 'responsible person' for a registered non-government school and retaining such records for a period of seven (7) years before archiving or disposing;
- (iii) requiring each 'responsible person' at formal meetings of the school's 'responsible persons' to raise any actual, perceived or potential conflict with regard to items on the agenda for the meeting and for recording in the minutes of the meeting any conflict that is raised; and
- (iv) each 'responsible person' with a conflict of interest (including but not limited to a pecuniary interest or a related party transaction) mitigating the ensuing risk in a way that is acceptable to the other 'responsible persons' involved (for example, by absenting themselves from participating in any associated decision-making or advisory role).

The Principal of each College (or delegate) is responsible for ensuring a register of Conflicts of Interest is maintained for that College. This must be provided to the Secretary on request.

The Board of Directors is responsible for the following, for each College in NSW:

- (a) Establishing a process to ensure each College in NSW has a policy and procedures in relation to dealing with conflicts of interest in accordance with the requirement in NSW; and
- (b) Monitoring compliance with those policies.

Schedule 4

VICTORIA

In Victoria, a registered non-government school must be not-for-profit as defined under the Education and Training Reform Act 2006 and the Education and Training Reform Regulation 2017 (ETR).

Regulation 7 of the ETR provides that, for the purposes of the Regulation (and the prescribed Minimum Registration Requirements), a not-for-profit school is a school that satisfies all of the following criteria:

- a. the school is not established for the purpose of profit or gain;
- b. the proprietor of the school does not conduct the school for the purposes of the proprietor's or any other person's profit or gain;
- c. no part of the profit or gain made in the conduct of the school is or may be distributed to any person or entity;
- d. all money and property received by the school or the proprietor of the school for the conduct of the school are applied solely toward the conduct of the school in accordance with the school's not-for-profit purpose;
- e. the school is not a party to a prohibited agreement or arrangement;
- f. the proprietor of the school is not a party to a prohibited agreement or arrangement.

The Guidelines to the Minimum Standards and Other Requirements for Registration of Schools in Victoria provides that all registered non-government schools maintain a conflict of interest policy for all responsible persons (as defined in Victoria) and an explanation for how any conflicts will be managed.

The Principal of each College (or delegate) is responsible for ensuring a register of Conflicts of Interest is maintained for that College. This must be provided to the Secretary on request.

The Board of Directors is responsible for the following, for each College in Victoria:

- (c) Establishing a process to ensure each College in Victoria has a policy and procedures in relation to dealing with conflicts of interest in accordance with the requirement in Victoria; and
- (d) Monitoring compliance with those policies.

Schedule 5

MSA Ltd's Register of Interests

Name of Director/ Responsible Person	Description of interest	Has the Board of Directors and Secretary been notified of the interest?	Date of disclosure	Steps taken by Board of Directors or delegate for dealing with the conflict	Have the Members of the Company been notified of the interest? Actions taken by MSA Ltd to address the conflict.

Schedule 6

Additional requirements for Categories of Responsible Persons.

1. MSA Ltd employees

1.1 Executive Management

- (a) Where a Responsible Person who is part of the Executive Management, suspects that there is a conflict of interest (whether it is direct, actual, potential or perceived), that employee is required to:
 - (i) discuss the suspected conflict of interest with the National Director MSA. Where matters relate to the National Director MSA, these matters must be directed to the Chair of the Board;
 - (ii) where it has been identified that there is a conflict, the Employee must immediately notify the Secretary and in doing so provide all relevant facts. The Secretary must then enter details of the conflict into MSA Ltd's Register of Interests and notify the National Director MSA or if the conflict involves the National Director MSA the Secretary must notify the Chair of the Board of the conflict; and
 - (iii) obtain a determination of the actions to be taken to manage the conflict from the National Director MSA, or if the conflict involves the National Director MSA the Chair of the Board, and provide these further details to the Secretary to enter into the MSA Ltd Register.
- (b) Any person with authority to determine how a conflict of interest is to be managed (including by proposing a conflict of interest management plan) must have regard to any relevant provisions in the Related Party Transactions Policy.

1.2 College Principals

- (a) Where a Responsible Person who is a Principal of a College suspects that there is a conflict of interest (whether it is direct, actual, potential or perceived), that employee is required to:
 - (i) discuss the suspected conflict of interest with the MSA Regional Director for the College;
 - (ii) where it has been identified that there is a conflict, the Employee must immediately notify the Secretary and in doing so provide all relevant facts. The

Secretary must then enter details of the conflict into the MSA Ltd's Register of Interests and notify the MSA Regional Director; and

- (iii) obtain a determination of the actions to be taken to manage the conflict from the MSA Regional Director and provide these further details to the Secretary to enter into the MSA Ltd Register.
- (b) Any person with authority to determine how a conflict of interest is to be managed (including by proposing a conflict of interest management plan) must have regard to any relevant provisions in the Related Party Transactions Policy.

1.3 College Staff

- (a) Where a Responsible Person who is an employee of one of the Colleges (who works primarily at one of the College sites under direction of one of the College Principals) suspects that there is a conflict of interest (whether it is direct, actual, potential or perceived), that employee is required to:
 - (i) discuss the suspected conflict of interest with the Principal of the College.
 - (ii) where it has been identified that there is a conflict, the Employee must immediately notify the Principal and in doing so provide all relevant facts. The Principal or delegate must then enter details of the conflict into the College's Register of Interests; and
 - (iii) obtain a determination of the actions to be taken to manage the conflict from the Principal, who (or their delegate) will enter these further details into the College's Register.
- (b) The Colleges' Registers of Interest must be provided to the Secretary, MSA Regional Director or National Director MSA immediately on request.
- (c) Any person with authority to determine how a conflict of interest is to be managed (including by proposing a conflict of interest management plan) must have regard to any relevant provisions in the Related Party Transactions Policy.

2. Members of MSA Ltd Committees

- (a) Where a Responsible Person who is a member of a Committee of MSA Ltd (established by the Board of Directors in accordance with the Constitution), suspects that there is a conflict of interest (whether it is direct, actual, potential or perceived), that person is required to:
 - (i) Discuss the nature of the suspected conflict of interest with the other members of the Committee at the next meeting of the Committee;

- (ii) Where it is identified that a conflict of interest exists, disclose the nature and extent of any direct, actual, potential or perceived conflict of interest (including a pecuniary conflict of interest) to the Secretary; and
 - (iii) seek the written approval from either the Board of Directors or from the person with the necessary authority under delegation (in accordance with the Delegations Policy and Matrix) to determine how the conflict will be resolved or managed.
- (b) if all of the members of the Committee have the same conflict of interest, the chair of the Committee must disclose the nature and extent of any direct, actual, potential or perceived conflict of interest (including a pecuniary conflict of interest) to the Board of Directors (in addition to the Secretary) by notice in writing.
- (c) Where the Committee is making a determination or recommendation in regards to a Related Party, they must abide by all relevant provisions in the related Party Transactions Policy.

3. General Matters

- (a) A declaration of the details of any conflict of interest direct, actual, potential or perceived conflict of interest (including a pecuniary conflict of interest) in a matter that is being considered at a meeting will be called for at the commencement of all meetings of Responsible Persons, and any disclosures and the outcome must be noted in the minutes and provided to the Secretary.
- (b) A report containing details of new conflicts of interest entered in the MSA Ltd and Colleges' registers will be provided to the Board by the Secretary on a quarterly basis.