



## Corporate Policy and Procedure Manual

**Policy:** Whistleblower Policy

**Effective Date:** 12/08/2016

**Regulatory Reference:** See below

**Document Owner:** Dana Penny

**Accountable:** All New Jewish Home employees, volunteers and vendors.

**Divisions/Programs:** System, Manhattan, Westchester, Community Services, Kittay House, Bronx Assisted Living, JHL Housing

**Policy:** The New Jewish Home and its affiliates and their respective directors, officers, employees, contractors and volunteers (collectively, “representatives”) are required to comply with the organization’s code of conduct, policies and procedures and the laws and regulations that apply to the organization in the conduct of their duties and responsibilities.

This Whistleblower Policy is intended to protect representatives against retaliation for reporting suspected, actual or potential violations of law, regulations, policy, procedure or the Code of Conduct (“violations”). This policy is intended to support the organization’s goal of ensuring compliance with the its code of conduct, policies and procedures and applicable laws and regulations by encouraging and enabling representatives to raise serious concerns internally in order to correct and resolve any violations.

**Non-Retaliation Policy.** There will be no harassment, adverse employment consequence, or other form of retaliation against any representative or other person who makes a good-faith report of a violation or suspected violation of law, regulations, policy, procedure or the Code of Conduct.

This policy applies to internal reporting and to external reports to outside agencies with jurisdiction over the matter reported. A representative who retaliates against someone who has reported a violation or suspected violation in good faith is subject to discipline up to and including termination.

This protection does not apply to anyone who deliberately makes a false accusation of a violation. Any representative who is a Jewish Home employee , alleging a violation in bad faith will be subject to disciplinary action, up to and including termination. A summary of Federal and New York State laws that protect whistleblowers is attached to this policy.

**Open Door Policy.** The New Jewish Home has an open door policy for internal reporting of violations or suspected violations. Matters which should be reported under this policy include but are not limited to actual or suspected:

- Abuse, neglect, or harassment of residents, clients or their families or friends
- Poor quality of care
- Fraud, waste and abuse
- Improper activities or arrangement by vendors or contractors
- Theft or misuse of The New Jewish Home assets
- Harassment of or improper retaliation against a representative
- Discrimination issues
- Billing or coding irregularities
- Kick-backs or improper referral arrangements

- Breaches of confidential information
- Environmental or safety issues
- Undisclosed conflicts of interest.

**Investigations of Reports of Violations.** The Chief Compliance Officer is responsible for overseeing investigations and resolution of all reported complaints and allegations concerning violations of this policy and procedure and, as appropriate, will advise the President and Chief Executive Officer, the Chair of the Board of Directors and the Audit and Compliance Committee of the Board of Directors of such matters. Such investigations may be conducted at the direction of legal counsel.

Investigations are tracked by the Compliance Department and any trends identified will be reported to the President and Chief Executive Officer, the Chair of the Board of Directors and the Audit and Compliance Committee of the Board of Directors

Any substantiated cases of retaliation against any representative will be referred to the President and Chief Executive Officer and will be addressed under all relevant laws, regulations and collective bargaining agreements.

**Confidentiality.** Reports may be submitted on a confidential basis or anonymously. Reports of violations or suspected violations of this policy and procedure will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

**Procedure:** Reports may be directed to:

- (i) The employee's supervisor, department head or division administrator;
- (ii) The New Jewish Home's Chief Compliance Officer at **212-870-4752** or toll-free at **1-800-448-3598**
- (iii) Confidential on-line reporting application, ReportIt, available on The New Jewish Home website at [www.jewishhome.org](http://www.jewishhome.org). Confidential reports made in this manner will be reported directly to the Chair of the Board's Audit and Compliance Committee and to the Chair of the Board of Directors without first going through management.

Reports can be made completely anonymously. Our Compliance reporting application can be also be accessed from any computer with internet access at:

- [www.reportit.net](http://www.reportit.net)
- USER NAME: JewishHome
- PASSWORD: compliance
- You can also report anonymously to **1-877-778-5463**

You can also contact:

- Office of the Inspector General (OIG) National Hotline: **1-800-323-8603**
- OIG Fax: **202-254-4292** OIG Email: [DHSOIGhotline@dhs.gov](mailto:DHSOIGhotline@dhs.gov)
- Centers for Medicare & Medicaid Services (CMS): **1-800-633-4227**
- The Joint Commission at **1-800-994-6610** or [complaint@jointcommission.org](mailto:complaint@jointcommission.org)
- The New York State Department of Health Nursing Home Hotline: **1-888-201-4563**
- The New York State Department of Health Home Health Hotline: **1-800-628-5972**

- Any possible Fraud, Waste and Abuse will be reported to the appropriate Medicare Advantage or Prescription Drug Plan or State or Federal authorities.

The New Jewish Home is committed to promptly investigating any suspicions of improper activities and requires all employees to assist in such investigations. If an employee or other representative believes that The New Jewish Home is not responding to his or her report within a reasonable period of time, the employee shall bring these concerns to The New Jewish Home's Chief Compliance Officer.

**Policy Manager:**

Dana Penny  
Chief Compliance Officer  
12/08/2016

**Approved by:**

Audrey Weiner, DSW, MPH  
President & CEO  
Approval Date 12/08/2016

## **LAWS THAT PROTECT WHISTLEBLOWERS**

### **Federal False Claims Act (31 U.S.C. §3730(h))**

The FCA provides protection to *qui tam* relators (whistleblowers who sue their employers on behalf of the government) who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. 31 U.S.C. 3730(h). Remedies include reinstatement with comparable seniority as the *qui tam* relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

### **NY False Claim Act (State Finance Law §191)**

The False Claim Act also provides protection to *qui tam* relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the Act. Remedies include reinstatement with comparable seniority as the *qui tam* relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

### **New York Labor Law §740**

An employer may not take any retaliatory action against an employee if the employee discloses information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that the employer is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under Penal Law § 177 (knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions). The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

### **New York Labor Law §741**

A health care employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care. The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.