

NYC HEALTH + HOSPITALS’ WHISTLEBLOWER POLICY

**This Whistleblower Policy is also found in NYC Health + Hospitals’
Operating Procedure 50-1 “Corporate Compliance and Ethics Program”**

A. Retaliation Prohibited/Whistleblower Protection

NYC Health + Hospitals strictly prohibits intimidation and retaliation, in any form, against any Covered Person¹ or other individual or entity that, in good faith, participates in the *Corporate Compliance and Ethics Program* (also referred to as the “Program”) by engaging in any of the following activities (hereinafter collectively referred to as “Protected Conduct”):

- (i) Reporting and investigating potential compliance issues and other concerns including, without limitation, those surrounding the engagement of Covered Persons in activities that are prohibited under subdivision “D” of § 23 [Disciplinary Policy], of Operating Procedure (“OP”) 50-1, *Corporate Compliance and Ethics Program*;²
- (ii) Performing self-evaluations, internal investigations, and audits;³
- (iii) Filing a compliance complaint;
- (iv) Making compliance inquiries;
- (v) Cooperating with or implementing remedial actions in response to noted compliance deficiencies and/or failures;⁴
- (vi) Reporting to or providing (or threatening to report or provide) information to appropriate officials as provided under Labor Law §§ 740 and 741;⁵
- (vii) Objecting to or refusing to participate in any activity, policy or practice that:
 - (a) Violates applicable law⁶ or NYC Health + Hospitals’ internal policies;
 - (b) Constitutes improper quality of patient care;⁷ or
 - (c) Constitutes health care fraud;⁸
- (viii) Disclosing or otherwise reporting “information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior” by a Covered Person involving, for example, “investments, travel, the acquisition of real property and

¹ Covered Persons include NYC Health + Hospitals’ Workforce Members, Business Partners, and Agents, as defined in § 6 of Operating Procedure 50-1.

² See 18 NYCRR § 521.3[c][8].

³ See *id.*

⁴ See *id.*

⁵ See Social Services Law § 363-d [2][h]; 18 NYCRR § 521.3 [c][8]; see also Labor Law §§ 740[2][a-b], 741 [2][a]. Note, Attachment IX of OP 50-1 provides an overview of Labor Law §§ 740 and 741 and other whistleblower protection laws.

⁶ See Labor Law § 740 [2][c]; see also 45 CFR § 160.316 [c].

⁷ See *id.* at § 741 [2][b].

⁸ See *id.* at § 740 [2][c].



the disposition of real and personal property and the procurement of goods and services”;⁹

- (ix) Exercising any right established, or participating in any process provided for, under the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) including, without limitation, the HIPAA Privacy and Breach Notification Rules;¹⁰ and
- (x) “Testifying, assisting, or participating in an investigation, compliance review, proceeding, or hearing under” NYC Health + Hospitals’ internal policies and procedures and applicable Federal or State law.¹¹

B. Whistleblower Defined

The term “Whistleblower” means any Covered Person or other individual or entity that engages in Protected Conduct as described in subdivision “A” of this policy, *supra*.

C. Retaliation Defined

The term “Retaliation” (or retaliatory conduct or action) means the discharge, suspension, demotion, engagement of threatening or coercive conduct, penalization, discrimination or other adverse employment, contractual, business-related or patient care-related action imposed against any individual or entity as a consequence of any individual’s engagement in Protected Conduct or other participation in the Program.¹²

D. Disciplinary Action for Retaliatory Conduct

Any Covered Person, or other individual or entity that is under contract, affiliation agreement or has established any other agreement with NYC Health + Hospitals, that engages in retaliatory conduct against a Whistleblower shall face Disciplinary Action, up to and including termination of employment, contract, and/or other affiliation with NYC Health + Hospitals, as outlined in the Disciplinary Policy in § 23 of OP 50-1.

E. Applicability of Labor Law §§ 740 & 741

(i) *Overview*

Labor Law §§ 740 and 741 prohibit retaliatory action against certain Workforce Members who, among other things, disclose or threaten to disclose to a supervisor or to a public body an activity, policy or practice of the employer that:

⁹ Public Authorities Law § 2824 [1][e] (requiring board members of state or local authorities to establish policies protecting employees from reporting compliance issues).

¹⁰ See 45 CFR § 164.530 [g][1].

¹¹ 45 CFR §160.316 [b].

¹² See Labor Law §§ 741[1][f], 740[1][e]; see also 45 CFR § 164.530 [g][1].



- (a) Is in violation of a law, rule or regulation for which the violation creates and presents a substantial and specific danger to the public health or safety, or which constitutes health care fraud;¹³ or
- (b) The workforce member, in good faith, reasonably believes constitutes improper quality of patient care.¹⁴

(ii) *Additional Information Regarding Labor Law §§ 740 and 741*

For a summary review of Labor Law §§ 740 and 741, annexed to OP 50-1 as Attachment IX is an *Overview of New York Labor Law §§ 740 & 741 and other Whistleblower Laws*, which provides, in pertinent part, a more detailed overview of Labor Law §§ 740 and 741 than that outlined in ¶ (i) of this subdivision.¹⁵

F. Reporting Procedure

All reports of retaliation, or any other compliance-related complaints, can be made to the Office of Corporate Compliance via the NYC Health + Hospitals Compliance Helpline; telephone or fax; email; or by letter as follows:

**NYC Health + Hospitals
Office of Corporate Compliance
160 Water Street, Suite 1129
New York, NY 10038
Telephone: (646) 458-7799
Facsimile: (646) 458-5624
E-mail: COMPLIANCE@nychhc.org
Confidential Compliance Helpline:
1-866-HELP-HHC (1-866-435-7442)**

¹³ N.Y. Labor Law § 740 [2][a].

¹⁴ N.Y. Labor Law § 741 [2][a].

¹⁵ See ¶ (x) of subdivision “B”, § 7 [Attachments] of OP 50-1.

