

# THE CENTER FOR DISCOVERY

SUBJECT: Non-Intimidation and Non Retaliation in Reporting	MANUAL: Corporate Compliance
	SECTION: Section 8

## Purpose:

The Center for Discovery recognizes that a critical aspect of its compliance program is the establishment of a culture that promotes prevention, detection, and resolution of instances of conduct that do not conform to federal and state requirements, as well as the organization's ethical and business policies.

To promote this culture, The Center for Discovery established a compliance reporting process and a non-intimidation and non-retaliation policy to protect those employees and others who report problems and concerns in good faith. Any form of intimidation and or retaliation or retribution can undermine the compliance resolution process and result in a failure of communication channels in the organization and is therefore strictly prohibited.

## DEFINITIONS:

**Good faith participation-** Good Faith participation in the Compliance Program means an individual makes sincere efforts to comply with the standards and provisions set forth in the Compliance Plan, Code of Conduct, policies, procedures, rules, regulations, and laws.

**Good faith reporting-** Good faith Reporting of a compliance concern is made with honest intent and motive – that the employee, contractor, or other agent had a sincere and reasonable belief that a violation may have occurred. Reporting can be made in good faith but be wrong about the facts.

**Intimidation-** Intimidation is an act to manipulate another person and/or is an intentional behavior that causes a person of ordinary sensibilities to have feelings of fear or inadequacy. Generally, an act of intimidation would include a deliberate act or behavior meant to deter an individual from reporting a compliance concern or participating and cooperating with an investigation. However, whether an act is considered intimidation is determined based upon the specific facts and circumstances of the particular case.

**Retaliation-** Retaliation is an adverse action taken against an individual because the individual's good faith report of a compliance concern or participation in a compliance investigation. An adverse action includes:

- Termination, demotion, suspension, refusal to hire, and denial of training and/or promotion,
- Actions affecting employment or contractual relationships such as threats, unjustified negative evaluations, unjustified negative references, or unjustified increased surveillance or scrutiny, or
- Any other actions that are likely to deter a reasonable individual from reporting illegal conditions or violations of laws, rules, regulations, policies or procedures, and/or from cooperating with an investigation.

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Adverse actions do not include any employment action(s), disciplinary action(s), and termination(s) taken as a result of the individual's own violation(s) of laws, rules, policies, or procedures, or negative comments in an otherwise positive or neutral evaluation, or negative comments that are justified by the individual's poor work performance or history.

## Policy:

1. All affected individuals have a duty and responsibility to promptly report any known or suspected misconduct, including actual or potential violations of laws, regulations, policies, procedures, the Corporate Compliance Plan or the Center's Code of Conduct.
2. The "open-door policy" will be maintained at all levels of management to encourage individuals to report problems and concerns.
3. The Center for Discovery will maintain a Corporate Compliance Hotline (1-845-707-8811). Individuals may report their compliance concerns confidentially to the Compliance Officer through use of the Corporate Compliance Hotline.
4. No intimidation or retaliation will be tolerated against an individual who in good faith participates in the compliance program, including but not limited to: reporting potential issues, investigating issues, self-evaluations, audits, remedial actions, and reporting to appropriate officials as provided in Sections 740, and 741 of the NYS Labor Law
5. Any employee who commits or condones any form of retaliation will be subject to disciplinary action, up to and including, termination.
6. Any employee who deliberately makes a false accusation with the purpose of retaliating against or harming another employee is subject to disciplinary action, up to and including, termination.

## Procedures that Apply to All Affected Individuals:

1. Knowledge of misconduct, including actual or potential violations of laws, regulations, policies, procedures, or the Center's Code of Conduct, must be immediately reported to management, Office of People Operations, the Corporate Compliance Officer, or the Corporate Compliance Hotline.
2. Confidentiality will be maintained to the extent that is practical and allowable by law. All affected individuals should be aware that the Center for Discovery is legally required to report certain types of crimes or potential crimes and infractions to external governmental agencies.
3. All affected individuals may report their compliance concerns confidentially to the Compliance Hotline

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4. The Compliance Hotline number will be published and visibly posted in a manner consistent with employee notification in locations frequented by Agency employees as well as on the CFD website for vendors, contractors and other affected individuals.
5. The Center for Discovery will not impose any disciplinary or other action in retaliation against individuals who make a report or complaint in good faith regarding a practice that the individual believes may violate the Center's Corporate Compliance Plan, Code of Conduct, its Compliance Policies and Procedures, or any of the laws, rules or regulations by which the Center for Discovery is governed. "Good faith" means that the individual believes that the potential violation actually occurred as he or she is actually reporting.
6. The Center for Discovery strictly prohibits its employees from engaging in any act, conduct or behavior which results in, or is intended to result in, intimidation or retaliation against any individual for reporting his or her concerns relating to a possible violation of the Center's Corporate Compliance Plan, Code of Conduct, its Compliance Policies and Procedures, or any of the laws, rules or regulations by which the Center for Discovery is governed.
7. If an individual believes in good faith that s/he has been made to feel intimidated or has been retaliated against for reporting a compliance complaint or concern or for participating in any investigation of such a report or complaint, the employee should immediately report this to the Corporate Compliance Officer or the Corporate Compliance Hotline. The report should include a thorough account of the incident(s) and should include the names, dates and specific events, the names of any witnesses, and the location or name of any document that supports the alleged retaliation.
8. Knowledge of a violation or potential violation of this policy must be reported directly to the Corporate Compliance Officer or the Corporate Compliance Hotline (1-845-707-8811).

## **Procedures that Apply to Management (which includes Vice Presidents, Chiefs, Directors, Managers, Coordinators, and Supervisors):**

1. Management must take appropriate measures to ensure that all levels of management support this policy and encourage the reporting of problems and concerns. At a minimum, the following actions should be taken and become an ongoing aspect of the management process:
  - a. Ensure that staff are provided with the annual Corporate Compliance training to include reporting a compliance concern, and non- intimidation and non-retaliation protections, and
  - b. Be available to review or discuss the training or refer staff to the corporate compliance department if they have further questions

## **Procedures that Apply to the Corporate Compliance Officer:**

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1. Ensure that all contractors and vendors are directed to the Corporate Compliance plan and indicate they have read and understood the plan. This Non intimidation and non retaliation policy is included within the plan. The CCO will be available to provide further information or answer any questions.
2. The Compliance Officer will be responsible for the investigation and follow-up of any reported intimidation/retaliation against an individual for reporting a compliance concern or participating in the investigation of a compliance concern.
3. The Compliance Officer will report the results of an investigation into suspected intimidation and or retaliation to the governing entity deemed most appropriate, such as the Governance and Corporate Compliance Committee or the Board of Directors.

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