

Title: Non-Retaliation, Non-Retribution, and Non-Intimidation for Good Faith Reporting Policy	Number/Type: HQ 5.1.11
Owner: Corporate Compliance Officer	Effective Date: February 14, 2018
Approved By: Executive Compliance Committee	
For Use At: Health Quest Systems	

SCOPE:

Workforce Members of Health Quest Systems, Inc., Vassar Brothers Medical Center, Putnam Hospital Center, Northern Dutchess Hospital, Sharon Hospital, and all other Health Quest affiliates (“HQ”)

PURPOSE:

To encourage Workforce Members to report, in good faith and without fear of retaliation or intimidation, any actual or suspected noncompliance with any laws, regulations, policies, the HQ Corporate Compliance Program or Code of Conduct.

POLICY:

Workforce Members who, in good faith, report any actual or suspected action within HQ that is illegal, fraudulent or in violation of any adopted policy of HQ shall not suffer retaliation, retribution or intimidation. Any Workforce Member who retaliates or intimidates another Workforce Member who has made a good faith report shall be subject to disciplinary action up to and including termination of their affiliation with HQ.

DEFINITIONS:

Good Faith: A belief in the validity of a person’s allegation that a reasonable person, in the other person’s position, could have based on information known at the time

Workforce Members: Any employee, independent contractor, agent, volunteer, trainee, or other person who performs work for or on behalf of HQ. This includes: full-time, part-time, and pool employees; associates; directors; officers; managers; supervisors; volunteers; members of the Board and members of standing committees; medical staff employed by or otherwise affiliated with HQ; affiliated students or others receiving training at any HQ facility; and others who provide goods or services to HQ.

POLICY STATEMENTS:

- A. HQ will have open lines of communication and will encourage communication of any issues or areas of concern to all level of management, Human Resources, the Chief Compliance Officer, and the Office of Compliance, Internal Audit and Privacy (“OCIAP”).

Title: Non-Retaliation, Non-Retribution, and Non-Intimidation for Good Faith Reporting Policy	Number/Type: HQ 5.1.11
Owner: Corporate Compliance Officer	Effective Date: February 14, 2018
Approved By: Executive Compliance Committee	
For Use At: Health Quest Systems	

- B. All Workforce Members are required to promptly report any known or suspected misconduct, including actual or potential violations of laws, regulations, policies, procedures, Corporate Compliance plan(s), or the Code of Conduct. The identity of the individual making a report will be kept confidential whenever circumstances permit.
- C. HQ has a Compliance Hotline (toll free number: 1-844-937-9326), which is available for any individual. The Compliance Hotline provides an anonymous means to report any actual or suspected violations of any rule or regulation.
- D. Other reporting mechanisms shall be made known to Workforce Members and routinely publicized by the OCIAP, as required by the Compliance Disclosure Program Policy. For example, reports can be made: in person; by direct phone calls; via e-mails and/or any form of handwritten memoranda to a manager or supervisor in his/her chain of command; to Human Resources, a member of the Executive Staff, the Chief Compliance Officer or a staff member of OCIAP.
- E. All reports made shall be promptly reported, regardless of the mechanism used by the individual, to the Chief Compliance Officer or the OCIAP and then promptly recorded in the confidential disclosure log, as required by the Compliance Disclosure Program Policy.
- F. All reports will be investigated, in coordination with the Chief Compliance Officer and appropriate action taken, as required by the Compliance Disclosure Program Policy.
- G. A timely and appropriate acknowledgement shall be made to each individual. Responses to an individual who made an anonymous report shall be done in a manner that maintains the individual's anonymity
- H. All reports will be investigated and a timely and appropriate response given to the individual making the report, while protecting an individual's anonymity.
- I. Protections provided to individuals from retaliation, retribution and intimidation under federal, New York and Connecticut laws and regulations are summarized in Attachment A.
- J. An individual cannot exempt themselves from the consequences of their own misconduct by reporting the issue, although self-reporting may be taken into account in determining the appropriate course of action.

Title: Non-Retaliation, Non-Retribution, and Non-Intimidation for Good Faith Reporting Policy	Number/Type: HQ 5.1.11
Owner: Corporate Compliance Officer	Effective Date: February 14, 2018
Approved By:	Executive Compliance Committee
For Use At:	Health Quest Systems

- K. Confidentiality will be maintained to the extent that is practical and allowable by law. HQ may be legally required to report crimes or potential crimes and infractions to external governmental agencies.

- L. The Chief Compliance Officer is designated to administer this policy, and is required to report to the HQ Board, or an authorized committee thereof. The person who is the subject of a retaliation, retribution or intimidation (i.e. whistleblower) complaint will not be present at or participate in Board or committee deliberations or vote on the matter relating to such complaint.

- M. A copy of this policy will be will be available to all directors, officers, employees, volunteers and medical staff on HQ's internet website.

REFERENCES:

Department of Health and Human Services, Office of Inspector General, Publication of the OIG Compliance Program Guidance for Hospitals, 63 Fed. Reg. 8987 (Feb. 23, 1998).
 Department of Health and Human Services, Office of Inspector General, OIG Supplemental Compliance Program Guidance for Hospitals, 70 Fed. Reg. 4858 (Jan. 31, 2005).
 United States Sentencing Commission, Guidelines Manual, Ch. 8 (Nov. 2015).
 Deficit Reduction Act of 2005
 Federal False Claims Act (31 U.S.C. §3730(h))
 Federal Occupational Safety and Health Act of 1990 (29 USC 660 (c))
 New York State False Claim Act (State Finance Law §191)
 New York State Labor Law, Section 740
 New York State Labor Law, Section 741
 New York Not-For-Profit Corporation Law – Whistleblower Policy Requirements
 Conn. Gen. Stat. Sec. 4-61dd – Whistleblowing. Large state contractors
 Conn. Gen. Stat. Sec. 31-51m – Protection of Employee Who Discloses Employer's Illegal Activities or Unethical Practices
 Regs. Conn. State Agencies Sec. 4-61 dd-1 et seq. – Rules of Practice for Contested Case Proceedings under the Whistleblower Protection Act

POLICY HISTORY:

Supersedes: None
 Original Implementation Date: 9/15/2008
 Date Reviewed: 2/14/2018

Title: Non-Retaliation, Non-Retribution, and Non-Intimidation for Good Faith Reporting Policy	Number/Type: HQ 5.1.11
Owner: Corporate Compliance Officer	Effective Date: February 14, 2018
Approved By: Executive Compliance Committee	
For Use At: Health Quest Systems	

Date Revised: 2/14/2018

APPROVAL:



Policy Owner



Date

Title: Non-Retaliation, Non-Retribution, and Non-Intimidation for Good Faith Reporting Policy	Number/Type: HQ 5.1.11
Owner: Corporate Compliance Officer	Effective Date: February 14, 2018
Approved By:	Executive Compliance Committee
For Use At:	Health Quest Systems

ATTACHMENT A

Summary of Retaliation, Retribution and Intimidation (i.e. Whistleblower) Protections:

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

The Federal False Claims Act provides protection to qui tam relators (individuals who commence a False Claims action) 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.

2) Federal Occupational Safety and Health Act of 1990 (29 USC 660 (c))

The Occupational Safety and Health Act ("OSHA Act") protects workers from retaliation who complain to their employers, Occupational Safety and Health Administration, or other government agencies about unsafe or unhealthy working conditions in the workplace or environmental problems, or who exercise a variety of rights under the OSHA Act.

3) New York State False Claims Act (State Finance Law §191)

The New York State False Claims Act also provides protection to qui tam relators (individuals who commence a False Claims action) 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.

4) New York State Labor Law, Section 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 healthcare 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

Title: Non-Retaliation, Non-Retribution, and Non-Intimidation for Good Faith Reporting Policy	Number/Type: HQ 5.1.11
Owner: Corporate Compliance Officer	Effective Date: February 14, 2018
Approved By: Executive Compliance Committee	
For Use At: Health Quest Systems	

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.

5) New York State Labor Law, Section 741

A healthcare 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.

6) New York Not-For-Profit Corporation Law - Whistleblower Policy Requirements

Not-For-Profit Corporation Law § 715-B requires all not-for-profit corporations in New York with 20 or more employees and annual revenues exceeding \$1,000,000 to adopt a Whistleblower Policy that contains the following elements:

1. Provides that there will be no intimidation, harassment, discrimination or an adverse employment consequence for any trustee, officer, employee or volunteer who in good faith reports any action or suspected action within the corporation that is illegal, fraudulent or in violation of any adopted policy;
2. Contains procedures for reporting violations or suspected violations of law or corporate policies, including procedures for preserving the confidentiality of reported information;
3. Requires that an employee, officer, or trustee of the corporation be designated to administer the Whistleblower Policy and report to a committee of independent trustees of the Board of Trustees; and,
4. Requires that a copy of the Whistleblower Policy be distributed to all trustees, officers, employees and volunteers who provide substantial services to the corporation.

Title: Non-Retaliation, Non-Retribution, and Non-Intimidation for Good Faith Reporting Policy	Number/Type: HQ 5.1.11
Owner: Corporate Compliance Officer	Effective Date: February 14, 2018
Approved By:	Executive Compliance Committee
For Use At:	Health Quest Systems

- 6) **Conn. Gen. Stat. Sec. 4-61dd – Whistleblowing. Large state contractors.**
No employee or officer of a large state contractor may take or threaten to take any personnel action against an employee in retaliation for disclosing information of any matter involving corruption or violation of state or federal laws or regulations.
- 7) **Conn. Gen. Stat. Sec. 31-51m – Protection of Employee Who Discloses Employer’s Illegal Activities or Unethical Practices.**
No employer may discharge, discipline or otherwise penalize any employee because that person reports a violation or suspected violation of any state or federal law or regulation, or because the employee is requested by a public body to participate in an investigation, hearing or inquiry.
- 8) **Conn. Gen. Stat. Sec. 31-51q - Liability of Employer for Discipline or Discharge of Employee on Account of Employee’s Exercise of Certain Constitutional Rights.**
Any employer who disciplines or discharges an employee for exercising his/her constitutional rights shall be liable to the employee for damages, including punitive damages, and for reasonable attorneys’ fees as part of the costs of any action for damages. If the action for damages is brought without substantial justification, the court may award costs and attorneys’ fees to the employer.
- 9) **Regs. Conn. State Agencies Sec. 4-61 dd-1 et seq. – Rules of Practice for Contested Case Proceedings under the Whistleblower Protection Act.**
These regulations set forth the rules of practice for conducting a contested proceeding under the Whistleblower Protection Act.