



Compliance Program Policy and Procedure Manual

Category/Section: Compliance Program

Policy Number: CC-05

Title: Whistleblower and Non-Retaliation/Intimidation

Policy Origination Date: April 15, 2016

Policy Revision #: 8

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Effective Date of Current Revision: May 28, 2024

POLICY:

Episcopal Health Services Inc. (“EHS”) is committed to fostering a culture of compliant and ethical conduct. As part of that commitment, EHS strictly prohibits intimidation, harassment, or retaliation, in any form, against any individual or entity that *In Good Faith* participates in the EHS Compliance Program by reporting or participating in an investigation of any known or suspected violation of law, privacy, EHS policies and procedures, potential Fraud, Waste and Abuse or other non-compliance. Any attempt to retaliate against or intimidate an individual or entity that participates in the EHS Compliance Program will result in action up to and including termination of employment, contract, or affiliation with EHS.

PURPOSE:

The purpose of this policy is to support compliance with various applicable federal and New York State (“NYS”) laws, regulations, and best practices pertaining to non-retaliation or intimidation of all EHS employees, medical staff, affiliates, contractors, volunteers, students, and trainees (collectively “Personnel”), as well as members of the EHS Board of Trustees (“Board”), or other applicable individuals or entities.

SCOPE:

This policy governs the requirements outlined herein and applies to all Personnel at all EHS owned, operated, or affiliated facilities, entities, and programs.

ATTACHMENTS:

None.

DEFINITIONS:

A. In Good Faith:

Means reporting known or suspected non-compliant activities or participating in compliance investigations with the honest and reasonable belief that Non-Compliance has occurred.

B. Retaliation or Intimidation:

Means an adverse action taken against an individual or entity as a direct result of that individual’s or entity’s participation in the EHS Compliance Program. Actions generally include but are not limited to the inappropriate discharge, suspension, or demotion of an individual or any threatening, discriminatory, or other adverse action taken against an individual or entity in the terms and conditions of such employment, contractual, or other affiliation relationship with EHS.



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C. Whistleblower:

Means EHS Personnel or other individuals or entities that know or have reason to suspect non-compliance has occurred and who *In Good Faith* participate in the EHS Compliance Program.

RESPONSIBILITIES:

1. Compliance and Privacy Department:

In collaboration with other departments, Compliance & Privacy is responsible for evaluating and monitoring compliance with statutory and regulatory requirements concerning the protection of Personnel, Board members, and other individuals or entities from retaliation or intimidation, including participation in the development of policies and internal controls or systems.

2. Personnel:

Are responsible for performing their job functions in compliance with this policy. Failure to maintain such compliance may result in disciplinary action up to and including termination of employment, contractual, or other affiliation relationship with EHS.

PROCEDURES/GUIDELINES:

A. General Obligations

1. Personnel, Board members, or other individuals or entities have an obligation to report or participate in an investigation of any known or suspected non-compliance. Non-compliance includes, without limitation, the following:
 - Known or suspected misconduct, compliance, or non-compliance issues;
 - Known or suspected violations of employee or patient privacy or confidentiality;
 - Known or suspected violations of any applicable law or regulation;
 - Known or suspected violations of EHS' policies and procedures, Code of Conduct, or Compliance Program;
 - Potential overpayments;
 - Related risks under self or external audit or review of investigation;
 - Performing or participation in internal or external investigations, reviews, and audits;
 - Cooperating with or implementing remedial actions in response to noted compliance issues, deficiencies, or failures;
 - Known or suspected fraud, waste, or abuse;
 - Situations covered under Labor Law §§ 740, 741, including violations that create and/or present a substantial and specific danger to public health or safety, or that constitute healthcare fraud, or when Personnel reasonably believe a situation constitutes improper quality of patient care; and/or
 - Situations covered under Labor Law § 218-b, including workplace safety, reporting *In Good Faith* potential violations of this Labor Law, seeking intervention related to this Labor Law, refusing to work in environments where Personnel reasonably believe that such work presents an unreasonable risk of exposure to disease due to the failure to maintain compliance with applicable laws or guidelines covering work conditions and disease prevention.



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2. Personnel, other individuals, or entities may report any suspected non-compliance or other issue outlined in this policy, as follows:
 - By phone at (718) 869-5711;
 - By email at compliance@ehs.org;
 - Via the 24/7 Confidential & Anonymous Compliance Hotline by calling 1-844-973-0162 or visiting www.ehs.ethicspoint.com;
 - By mail at St. John's Episcopal Hospital, 327 Beach 19th Street, Far Rockaway, NY 11691. Attn: Compliance & Privacy.

Note: If you suspect Medicare fraud or that which involves a health plan, you can also contact the health plan sponsor directly or contact the OIG at 1-800-HHS-TIPS.

3. Compliance & Privacy will review and investigate allegations of retaliation or intimidation resulting from a Whistleblower's action, report, or complaint.
4. Whistleblower actions, reports, or complaints and their investigation will remain confidential to the extent permissible under federal, NYS, or local law.
5. In many situations, Whistleblowers involved in potential false claims, workplace safety issues, or other potential non-compliance have the right to bring forth civil actions on behalf of the government ("Qui Tam") without fear of Retaliation or Intimidation. Whistleblowers may be entitled to a percentage of recoveries or other rewards for reporting and participating in the investigation or settlement of these actions.
6. EHS may be civilly liable in some cases for acts or actions that violate this policy.
7. Personnel, Board members, other individuals, or other entities that engage in non-compliance, violations of this policy, or any form of retaliation or intimidation will be subject to action that includes but is not limited to termination of employment, contractual, or other affiliation relationship with EHS.
8. Board members who may be the subject of a Whistleblower's action, report, or complaint may not be present at or participate in deliberations or vote on a related matter, item, or issue.
9. A copy of this policy is available for review by Personnel, Board members, and other individuals and entities. This includes posting the policy on EHS' public website.
10. Compliance & Privacy will perform a review of this policy on an annual basis.

RELEVANT REFERENCES:

1. NYS SSL § 363-d.
2. 18 NYCRR §§ 521.1 and 521.3.
3. 45 CFR § 160.316.



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4. 45 CFR § 164.530.
5. N.Y. Labor Law §§ 740, 741 and 218-b.
6. N.Y. Not-For-Profit Corporation Law § 715-b.
7. U.S. Department of Health and Human Services Office of Inspector General’s (“OIG”) *Publication of the OIG Compliance Program Guidance for Hospitals*, 63 Fed. Reg. 35, 8989 (Feb. 23, 1998).
8. OIG’s *OIG Supplemental Compliance Guidance for Hospitals*, 70 Fed. Reg. 4858, 4875 (Jan. 31, 2005).
9. U.S. Department of Health and Human Services Office of Inspector General “*General Compliance Program Guidance*”, (Nov. 6, 2023).

RELATED POLICIES:

- Code of Conduct
- CC-06: Compliance Investigations

LIST OF REVISIONS:

Revision No.	Date of Change	Additions/Amendments
1	11/30/2016	Updated format
2	12/01/2017	Updated content & format
3	01/01/2021	Updated content, reporting mechanisms and references
4	07/01/2021	Included Workplace Safety language for NYS HERO Act.
5	01/01/2022	Updated format
6	01/01/2024	Updated owner’s title
7	03/28/2024	Updated to new EHS Logo
8	05/28/2024	Annual review. Policy standardization. Revised general obligations and requirements to make consistent with current regulations and guidelines.

TITLE, POLICY OWNER:

Assistant Director, Compliance

RECOMMENDED/APPROVED BY:

Chief Compliance & Privacy Officer

DISTRIBUTION:

- Nursing Staff
- Medical Staff
- Department Heads
- All Employees
- Other: Board Members, Volunteers, Students, Contractors