



Corporate Compliance: Whistleblower Protections & Non-Retaliation

Purpose:

Advocates (sometimes referred to as “organization” or “the organization”) is committed to promoting an environment where concerns regarding known or suspected fraud, waste, and abuse; illegal or unethical acts; actual or suspected violations of Federal or State laws and regulations; actual or suspected violations of the Standards of Conduct, the Compliance Program, and Advocates policies and procedures; improper acts in the delivery or billing of services; and other wrongdoing (collectively referred to as “compliance concerns” for purposes of this Policy) are reported and addressed without fear of retaliation, intimidation, retribution or harassment for good faith reporting of such concerns. To reinforce this commitment, the organization maintains a policy of non-intimidation and non-retaliation for good faith participation in the Compliance Program, including but not limited to reporting potential issues and compliance concerns, investigating issues, self-evaluations, audits and remedial actions, and reporting to appropriate officials as provided in the Labor Law.

Regulatory/Additional Authority:

Social Service Law 363-D
18 NYCRR Part 521
New York Labor Law §740 and §741

Scope:

All Affected Individuals

Responsible Employee (Title) and/or Department:

Compliance Officer (Director of Compliance, Quality and Incident Management) or their designee.

Definitions:

Affected Individuals:

All Advocates’ employees, including the Executive Director and senior leadership, contractors, subcontractors, independent contractors, agents (collectively, “contractors”), corporate officers, the Board of Directors, vendors and service recipients.

New York Labor Law 740:

An employer may not take any retaliatory personnel 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.

This law offers protection to an employee who:

- Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy, or practice of the employer that is in violation of law, rule, or regulation that presents a substantial and specific danger to the public health or safety;

- Provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry into any such violation of a law, rule, or regulation by the employer; or
- Objects to, or refuses to participate in, any such activity, policy, or practice in violation of a law, rule, or regulation.

The employee's disclosure is protected under this law only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, with certain exceptions. The law allows employees who are the subject of a retaliatory action to bring a suit in State court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees.

More information can be found at <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO%20:> under LAB-Labor.

New York Labor Law 741:

Under this law, 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 or improper quality of workplace safety.

This law offers protection to an employee who:

- Discloses or threatens to disclose to a supervisor, to a public body, to a news media outlet, or to a social media forum available to the public at large, an activity, policy, or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety; or
- Objects to or refuses to participate in any activity, policy, or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety.

The employee's disclosure is protected under this law 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.

Certain exceptions apply. If the 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 healthcare 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.

More information can be found at: <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO%20:> under LAB-Labor.

Policy

It is the policy of Advocates to strictly prohibit any form of retaliation or intimidation against Affected Individuals or entities, for reporting compliance concerns.

Advocates strictly prohibits Affected Individuals from engaging in any act, conduct, or behavior

that results in, or is intended to result in, retribution, intimidation or retaliation against any individual or entity for reporting compliance concerns to the organization or government agency.

No Advocates supervisor, manager, or employee is permitted to discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee, vendor, contractor, or other individual or organization (all such activity collectively referred to as “retaliation”) who in good faith participates in the Compliance Program, including but not limited to reporting potential compliance concerns, investigating or participating in an investigation, self-evaluations, audits, and reporting to the appropriate officials.

Procedures

1. If an Affected Individual believes in good faith that they have been retaliated against for reporting a compliance concern or for participating in any investigation of such a report, the retaliation should be immediately reported to the Compliance Officer. Reports can be made in person, via the Compliance Hotline at 315-457-1271 or via the anonymous/confidential online form at www.advocatesincorporated.org/resources/compliance-and-quality-information. The report should include a thorough account of the incident(s) and should include the names, dates, specific events, the names of any witnesses, and the location or name of any document that supports the alleged retaliation.
2. Knowledge of a violation or potential violation of this Policy must be reported directly to the Compliance Officer.
3. Any employee who believes they are the subject of retaliation, intimidation, harassment, discrimination, or adverse employment consequence must immediately report the actions to the Director of Human Resources and/or the Compliance Officer. Reports can be made to the Director of Human Resources in person or via hrsecure@advocatesincorporated.org.
4. The Compliance Officer will implement this Policy and take appropriate actions in response to the whistleblower’s complaint of retaliation based on the nature of the report, including collaborating with Human Resources. Legal counsel will be consulted, if appropriate.
5. The Compliance Officer or their designee will investigate all reports of retaliation in accordance with the Reporting and Investigation of Compliance Concerns Policy and report results to the Director of Human Resources and the Executive Director.
6. The Executive Director or designee will investigate any report that the Compliance Officer is engaging in intimidation or retaliation.
7. No person who is the subject of the whistleblower’s complaint will be present at or participate in Board or Committee deliberations relating to the complaint.
8. The Compliance Officer will provide information to the Compliance Committee and the Board of Directors on each report of retaliation and any actions taken.
9. The right of the whistleblower to protection against retaliation does not include immunity for any personal wrongdoing that is alleged and investigated.
10. Any Affected Individual who commits or condones any form of retaliation will be subject to disciplinary action up to, and including, termination of employment or relationship with Advocates.
11. The Compliance Officer will ensure this Policy is disseminated to all Affected Individuals and that these individuals receive relevant training as per with the organization’s training plan.

Sanction Statement:

Non-compliance with this policy may result in disciplinary action, up to and including termination.

Compliance Statement:

As part of its ongoing Compliance Program review and improvement process, Advocates will review this policy at least annually and as needed to respond to changes in laws or regulations and to determine if this policy:

- Has been implemented.
- Is being followed.
- Is effective.
- Needs to be updated.

Record Retention Statement:

Advocates will retain this policy and all subsequent revisions, and any related documentation will be retained for a period of, at minimum, six years.