

Appendix I– Whistleblower and Non-Retaliation/Non-Intimidation Policy

Effective Date: 06/13/06
Revision Date(s): 06/01/09, 12/12, 1/15

Program(s): Agency-wide

Reference(s): False Claims Act (31 USC §§ 3729-3733); Federal Program Civil Remedies Act of 1986 (31 U.S.C. § 3801); New York State False Claims Act (Article 13 of the State Finance Law); Social Services Law (Sections 145-b, 366-b), Penal Law (Articles 175-177); Section 403 of the Insurance Law; Sections 740 and 741 of the Labor Law; Deficit Reduction Act of 2005

Policy

A key element of JCCA’s Compliance Program is the ability of its’ Representatives to express problems, concerns or opinions without fear of retaliation, intimidation or other reprisal. At the same time, JCCA Representatives have an affirmative duty to report issues or concerns that come to their attention through the appropriate channels. Failure to do so can result in disciplinary action up to and including termination of employment or termination of contract. In addition to reporting potential compliance issues, JCCA Representatives can participate in the Compliance Program by assisting in the investigation of issues, assisting in self-evaluations and audits, implementing remedial actions and/or reporting to appropriate officials as provided in Labor Law §§ 740 and 741.¹

JCCA will not intimidate or take disciplinary or retaliatory action against a JCCA Representative who in good faith raises a compliance concern or otherwise participates in the Compliance Program. Intimidation or retaliation in any form by any individual associated with JCCA is strictly prohibited and is itself a serious violation of the Code of Conduct.

Procedure

If a JCCA Representative or Covered Contractor has a reasonable belief that JCCA or any JCCA Representatives or Covered Contractors has engaged in any action that violates any applicable law, rule or regulation – including those concerning any aspect of practice, harassment, accounting, and auditing – or any action that constitutes a fraudulent practice, that JCCA Representative or Covered Contractor is expected to report such information to JCCA management immediately. In general, the JCCA Representative or Covered Contractor should report the concern to his or her supervisor or program director, Senior Management, who will bring the concern to the Compliance Officer.

JCCA has established an anonymous telephone reporting line for anonymous and confidential good faith reporting of potential compliance issues as they are identified. The number is (917)808-4775. This line goes to a voice mailbox monitored by the Compliance Officer.

¹ A full discussion of the State Labor Law provisions and other available whistleblower protections is included in Appendix A.

Examples of the types of activity that must be reported by JCCA Representatives and Covered Contractors include, but are not limited to, the following:

- Billing Medicaid or other third-party payers for clients to whom JCCA has not rendered services
- Inflating or otherwise misrepresenting JCCA's costs on cost reports filed with government agencies or private funders
- Billing Medicaid for services rendered to a client if the Employee or Covered Contractor is aware that the client or his or her family has obtained Medicaid coverage fraudulently
- Submitting inaccurate or misleading data or reports to government agencies
- Theft or other misuse of Agency funds or property by Employees or Covered Contractors
- Violations of JCCA compliance policies or other guidance
- Violations of laws, regulations or government contracts
- The Compliance Officer or his or her designee will respond promptly to all reports, with further investigation conducted where needed to resolve disputed facts. In conducting investigations, JCCA will strive to keep the identity of the individual providing information about perceived violations as confidential as possible while conducting an adequate review and investigation. The Compliance Officer will notify JCCA's Board of Directors of allegations under investigation.

JCCA will not retaliate against a JCCA Representative or Covered Contractor in the terms and conditions of employment or contract because that individual: (a) reports in good faith what the JCCA Representative or Covered Contractor believes to be a violation of the law; or (b) participates in good faith in any resulting investigation or proceeding. Retaliation and intimidation are prohibited even if it is determined that the allegedly improper conduct was proper or did not occur, provided that the report was made in good faith. If the JCCA Representative or Covered Contractor has been involved in the issue being reported, reporting the issue will not eliminate the possibility of consequences following from that involvement. JCCA reserves the right to take disciplinary action against any JCCA Representative or Covered Contractor who maliciously files a report he or she knows to be untrue.

In addition, JCCA will not, with the intent to intimidate or retaliate, take any action harmful to any JCCA Representative or Covered Contractor who has provided to law enforcement personnel or a court truthful information related to the commission or possible commission by the organization or any of JCCA Representatives of a violation of any applicable law or regulation.

Anyone who commits or condones any form of retaliation will be subject to discipline up to, and including termination of employment or contract.

The affected JCCA Representative or the Covered Contractor should report any actual or threatened retaliation to the Compliance Officer or the Assistant Director of Quality Improvement. The Compliance Officer or his or her designee will investigate such allegations in the same manner as other investigations carried out under this policy.

