

GCP 8.01

Reporting Compliance Concerns, Non-Intimidation and Non-Retaliation.

1.0 Purpose

YAI (sometimes referred to as "Agency" or "the Agency") 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, YAI established a compliance reporting process and a strict non-intimidation and non-retaliation policy to protect against intimidation and retaliation of employees and others who in good faith report problems and concerns, participate in the investigation and resolution of an actual or perceived problem or in self-evaluations, audits and remedial actions, or who report to the appropriate officials. Any form of intimidation, retaliation or retribution can undermine the compliance resolution process and result in a failure of communication channels in the organization.

2.0 Policy

1. All employees have an affirmative duty and responsibility for promptly reporting any known or suspected misconduct, including actual or potential violations of laws, regulations, policies, procedures, YAI's Corporate Compliance Plan, or YAI's Code of Conduct.
2. YAI employees are required to assist with the investigation and resolution of compliance issues by cooperating with and engaging in such activities as: providing requested documentation, participating in interviews, assisting with the gathering of information, implementing and monitoring corrective actions and/or internal controls, training relevant parties, implementing disciplinary action as necessary, and any other steps necessary for the appropriate and timely resolution of compliance issues.

3. The "open-door policy" will be maintained at all levels of management to encourage employees to report problems and concerns.
4. YAI will maintain a Compliance Hotline and a Compliance Hotline e-mail address. The Compliance Hotline number is (212) 273-6100 ext. 2427. The Compliance Hotline e-mail address is: Compliance.Hotline@yai.org. Employees may report their compliance concerns anonymously and confidentially to the Compliance Officer through use of the Compliance Hotline or the Compliance Hotline e-mail.
5. Any form of intimidation or retaliation against any employee who in good faith reports or participates in the investigation and resolution of an actual or perceived problem, assists with or participates in self-evaluations, audits and remedial actions or reports to the appropriate governmental agencies, as provided in Sections 740 and 741 of the New York State Labor Law, is strictly prohibited.
6. Any employee who commits or condones any form of intimidation or retaliation will be subject to discipline up to, and including, termination.
7. Employees 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.

3.0 Scope

This Policy applies to all Agency employees or contractors who have an affirmative duty to report and assist in the investigation, resolution and reporting to governmental agencies of any known or suspected misconduct related to laws, regulations, policies, procedures, YAI's Corporate Compliance Plan, or YAI's Code of Conduct.

4.0 Procedures

Procedures that apply to all employees

1. Knowledge of misconduct, including actual or potential violations of laws, regulations, policies, procedures, or the organization's Code of Conduct, must be immediately reported to management, the Vice President of Human Resources and Diversity, the Compliance Officer, or the Compliance Hotline or Compliance Hotline e-mail.
2. Employees have the same reporting obligations for actual or suspected violations committed by the Agency's vendors or subcontractors.
3. Confidentiality will be maintained to the extent that is practical and allowable by law. Employees should be aware that YAI is legally required to report certain types of crimes or potential crimes and infractions to external governmental agencies.
4. Employees may report their compliance concerns confidentially to the Compliance Hotline or Compliance Hotline e-mail and provide his or her identity. Callers should be aware, however, that it may not be possible to preserve anonymity if they identify themselves, provide other information that identifies them, the investigation reveals their identity, or if they inform others that they have called the Compliance Hotline.
5. If the caller wishes to make the report anonymously to the Compliance Hotline or Compliance Hotline e-mail, no attempt will be made to trace the source of the call or e-mail or identify of the person making the call or sending the e-mail.
6. The Compliance Hotline number and Compliance Hotline e-mail address will be published and visibly posted in a manner consistent with employee notification in locations frequented by Agency employees.
7. Employees either reporting the compliance concern or who are otherwise involved in the compliance concern will fully cooperate and assist with the resolution of the compliance issue. This obligation includes but is not limited to:
 - Participating in good faith and being truthful during an interview or investigation;
 - Providing records, running reports and gathering any other relevant documentation requested during an investigation;
 - Preserving any documentation or records relevant to any ongoing investigations; and

- Assisting with the implementation of proper corrective actions and internal controls.

8. YAI will not intimidate or impose any disciplinary or other action in retaliation against individuals who make a report in good faith regarding a practice that the individual believes may violate the Agency's Corporate Compliance Plan, Code of Conduct, its Compliance Policies and Procedures, or any of the laws, rules, or regulations by which the Agency is governed. "Good faith" means that the individual believes that the potential violation actually occurred as he or she is actually reporting.
9. YAI 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 employee for (i) reporting his or her concerns relating to a possible violation of the Agency's Corporate Compliance Plan, Code of Conduct, its Compliance Policies and Procedures, or any of the laws, rules, or regulations by which the Agency is governed, (ii) participating in the investigation and resolution of an actual or perceived problem, (iii) participating or assisting in self-evaluations, audits and remedial actions, or (iv) reporting to the appropriate governmental agencies as provided in Sections 740 and 741 of the New York State Labor Law. (Refer to YAI Policy Statement to Comply with the Deficit Reduction Act of 2005)
10. If an employee believes in good faith that he has been intimidated or retaliated against for reporting a compliance complaint or concern, participating in any investigation and resolution of such a report or complaint, participating or assisting in self-evaluations, audits and remedial actions or reporting to the appropriate officials, the employee should immediately report such intimidation or retaliation to the Compliance Officer or the Compliance Hotline. 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 intimidation or retaliation.
11. Knowledge of an actual or potential violation of this policy must be reported directly to the Compliance Officer, employee's supervisor, senior management, Human Resources, the Compliance Hotline or the Compliance Hotline e-mail.

Procedures that apply to management (which includes executives, directors, managers, and supervisors, and member of the Human Resources Department)

1. Any member of management who receives a report of an actual or suspected violation will immediately notify the Compliance Officer.

Management must take appropriate measures to ensure that all levels of management support this policy and encourage the reporting of problems and concerns.

Procedures that apply to the Compliance Officer

1. The Compliance Officer will ensure that any reports of actual or suspected violations are responded to and corrected promptly.
2. The Compliance Officer will ensure that all reports of actual or suspected violations are recorded on the Compliance Issue Report Form.
3. The Compliance Officer will determine the scope of the reported issue and make a determination regarding the course of action, including the investigation process and notifications to be made to governmental agencies, including any notifications required under Sections 740 and 741 of the New York State Labor Law. (Refer to Policy on Investigation and Resolution of Compliance Issues).
4. The Compliance Officer will be responsible, in conjunction with the Human Resources Department, for the investigation and follow-up of any reported intimidation or retaliation against an employee for reporting a compliance concern, participating in the investigation of a compliance concern, participating or assisting in self-evaluations, audits and remedial actions or reporting to governmental agencies.
5. The Compliance Officer, or designee, shall maintain a disclosure log which will include a summary of each allegation, the status of the internal review and any corrective action taken.
6. The Compliance Officer will report the results of an investigation into suspected intimidation or retaliation to the governing entity deemed appropriate, such as Executive Management, the Board of Trustees, or the Staff Compliance Committee, and to governmental agencies, as appropriate.

5.0 References

The policy refers to the current version of the following:

- Code of Conduct
- Policy Statement to Comply with the Deficit Reduction Act of 2005
- Policy on Investigation and Resolution of Compliance Issues

6.0 Legal and Regulatory References

The current versions of the following laws, regulations and guidance documents are incorporated into this Policy by reference:

- Section 6032 of the Deficit Reduction Act of 2005, 42 U.S.C. § 1396a(a);
- Federal False Claims Act, 31 U.S.C. § 3730(h);
- Pilot Program for Enhancement of Protection from Reprisal for Disclosure of Certain Information, 31 U.S.C. § 4712;
- Federal Sentencing Guidelines for Organizations, Guidelines Manual Section 8B2.1(b)(5)(C);
- HIPAA Administrative Simplification: Enforcement; Final Rule, 45 C.F.R. § 160.316;
- Mandatory Compliance Program Requirements, New York Soc. Serv. Law § 363-d(2)(h);
- New York State False Claims Act, New York State Finance Law § 191;
- New York Lab. Law §§ 740 & 741;
- New York Not-For-Profit Corp. Law § 715-b; and
- 18 N.Y.C.R.R. § 521.3(c)(8).

7.0 Document History

Version number	Summary of changes	Effective date
1.0	Initial Version	April 14, 2011
2.0	Updates of Senior Management titles resulting from organizational restructuring and change in corporate logo	August 21, 2013
2.1	Updates of Senior Management titles resulting from organizational restructuring.	July 1, 2015
3.0	Revisions to address protection against intimidation and to provide for protection against intimidation and retaliation for participation in the investigation and resolution of an actual or perceived problem, participation in self-evaluations, audits and remedial actions, or reporting to governmental agencies. Revisions to set forth expectations for cooperation in the investigation and resolution of	December 16, 2015

Version number	Summary of changes	Effective date
	compliance concerns and for the prompt resolution of compliance concerns. Revisions to add information regarding Compliance Hotline e-mail address and Legal and Regulatory References.	