

# NOTICE OF MEETING

## **NORTH BROWARD HOSPITAL DISTRICT**

### **BOARD OF COMMISSIONERS**

A Legal Affairs and Governmental Relations Committee meeting will be held on Wednesday, January 20, 2021, immediately following the Audit Committee meeting, at the Broward Health Corporate Spectrum Location: 1700 Northwest 49 Street, Suite 150, Fort Lauderdale, Florida, 33309. The purpose of this committee meeting is to review and consider any matters within the committee's jurisdiction.

Persons with disabilities requiring special accommodations in order to participate should contact the District by calling 954-473-7481 at least 48 hours in advance of the meeting to request such accommodations.

Any person who decides to appeal any decision of the District's Board with respect to any matter considered at these meetings will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made which record includes testimony and evidence upon which the appeal is to be based.

## Resolution FY21-10

### **Resolution to Amend Section 6.2 of the Codified Resolutions of the Board of Commissioners of North Broward Hospital District: A Resolution Establishing a Uniform Policy for Conducting Investigations**

**WHEREAS**, the North Broward Hospital District (the “District”) is a special tax district of the State of Florida established to provide for the health care needs of the residents of the northern two-thirds of Broward County, Florida;

**WHEREAS**, as a public entity, the District is subject to substantial federal, state, and local laws and regulations and is required to conduct investigations into allegations of violations of law, regulations, and the District’s policies and procedures;

**WHEREAS**, the Board of Commissioners of the North Broward Hospital District (the “Board”) has established the Amended and Restated Bylaws of the North Broward Hospital District (the “Bylaws”) and its accompanying Codified Resolutions of the Board of Commissioners of the North Broward Hospital District (“Codified Resolutions”), both as amended from time to time;

**WHEREAS**, the Board consistent with its charter oversight and statutory duties has established Section 6.2 of the Codified Resolutions governing the District’s investigations;

**WHEREAS**, the Board wishes to amend and supersede Section 6.2 of the Codified Resolutions as provided herein consistent with uniform investigation best practices; and

**WHEREAS**, unless context otherwise requires, capitalized terms used but not defined herein have the meanings ascribed to such terms in the Bylaws and Codified Resolutions.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Commissioners of the North Broward Hospital District, that:

1. The President/CEO shall establish governing administrative guidelines of District investigations and a standard operating procedures providing for:
  - a. A normal and routine process of handling workforce conflicts, complaints, and allegations through organizational chain of command, the Human Resources Department, and the Corporate Compliance and Ethics Department. All workforce members should be encouraged to utilize the normal and routine process for conflicts, complaints, and allegations where possible.
  - b. A clinical process of handling all clinical quality of service and clinical risk complaints and allegations.
  - c. A process of handling anonymous or non-anonymous reports or complaints and allegations against Board Members, officers of the organization, and other high-level workforce members as determined by the President/CEO (“Senior-Level Members”). At a minimum, such process shall include:
    - i. The availability of a standard and uniform complaint intake form for allegations and complaints of Senior-Level Members (“Reports”) or anonymous or online complaints regardless of origination;
    - ii. All Reports remaining confidential, as applicable, and being initially reviewed for

- summary administrative action by Broward Health;
- iii. A senior administrative committee established for fact-finding and information gathering to assist the President/CEO, or his or her designee, in making a finding as to whether a Report demonstrates a legitimate basis to warrant an investigation;
  - iv. A review by the Office of the General Counsel of all Reports whereby there is a finding of a legitimate basis to warrant an investigation or inquiry for which state or federal law could be implicated and the assistance of legal counsel is warranted. In such instances, the Office of the General Counsel may supervise such investigations;
  - v. The establishment of annual training and certification for employees designated as lead examiners and investigators; and
  - vi. The establishment of a procedure to provide for all statutorily mandated logging of all Reports for which a legitimate basis to warrant an investigation is found.
- d. Maintaining internal confidentiality of all investigations and inquiries to the extent permitted by law.
  - e. The creation of procedures ensuring the non-retaliation of complainants when complaints are filed in good faith.
  - f. The creation of internal investigation administrative guidelines that align with accepted industry “best practices” that provide procedural rights to the accused and a fair opportunity to respond to any allegations and which, at a minimum, shall include:
    - i. A presumption of innocence throughout an investigation;
    - ii. Being treated with fairness and respect;
    - iii. Allegations being investigated in a professional, impartial, and thorough manner;
    - iv. Being given due care in the handling and sharing of confidential information during the course of an investigation;
    - v. To the extent permitted by federal and state law and unless the course of the investigation leads to unfounded allegations, being interviewed during the course of an investigation;
    - vi. To the extent permitted by federal and state law and unless the course of the investigation leads to unfounded allegations, being advised of the nature of the allegations and his or her role in the investigation at the earliest time practicable, but in no event later than at the time of the commencement of the accused’s interview; and
    - vii. To the extent permitted by federal and state law and unless the course of the investigation leads to unfounded allegations, being given the opportunity to explain his or her actions and to provide any documents or information that may be relevant to the factual determination of the matter, along with the names and details of any witnesses who may have or who may be able to provide any relevant information.
2. The President/CEO or designee shall receive the findings of any investigation verbally and may request a written report and then may take appropriate corrective action when warranted.
  3. This resolution shall be codified in Section 6.2 of the Codified Resolutions and hereby

supersedes, amends, and replaces Section 6.2 of the Codified Resolutions and any conflicting resolution or conflicting Policy previously adopted by the Board.

DULY ADOPTED this \_\_\_\_ day of January, 2021.

Time Adopted \_\_\_\_\_ PM

## **Informational Material**

### **District's Policy in Accordance with Resolution FY-10**

**POLICY AND PROCEDURE**

<b>Policy #</b>	<b>Policy Governing District Investigations</b>	<b>Page 1 of 7</b>
<b>Section:</b> GA-System Governance		
<b>Sponsor:</b> Gino Santorio, President/CEO	<b>Origination Date:</b> 01/01/21	<b>Distribution:</b> System-wide
<b>Approver:</b> Gino Santorio, President/CEO		
<b>Revision Date (s)</b>		
<b>Review Date (s)</b>		

**I. Policy**

North Broward Hospital District d/b/a Broward Health (“Broward Health”), as a Florida special district and public hospital system, is subject to substantial state, federal, and local laws and regulations. As part of Broward Health’s responsibilities, Broward Health is required to review allegations and complaints of fraud, abuse, waste, and Misconduct arising from violations of state and federal law including, but not limited to, Florida’s Code of Ethics for Public Officers and Employees (ch. 112, pt. III, Florida Statutes), Broward Health’s Code of Conduct, and Broward Health’s Policies and Procedures by any of Broward Health’s officers, employees, commissioners, agents, and independent contractors. To the extent an allegation or complaint demonstrates a legitimate basis to warrant an Investigation, all Investigations shall be comprehensive, in-depth, and fact-finding endeavors to obtain all of the information surrounding the allegations. Investigations may involve many different types of evidence including, without limitation, witness statements, interviews, documents, and other data. Because each type of Investigation will differ depending on the case and depending upon subject matter, each Broward Health department may have subject-specific Investigation standard operating procedures. Nevertheless, all department-specific rules must adhere to the following procedural Investigation guidelines and policies that follow.

**II. Definitions**

The words and acronyms defined in this Policy shall have the meanings set forth in the below regardless of whether they are capitalized, unless:

- (a) The context in which they are used clearly requires a different meaning; or
- (b) A different definition is prescribed for a particular section of this Policy.

Words not defined shall be given their common and ordinary meaning unless the context in which they are used requires otherwise.

“**Committee**” means three (3) or more senior Broward Health executives chosen in advance of a Complaint, to the extent possible, and designated by the President/CEO, or his or her designee, who assist the President/CEO in fact-finding and information gathering to determine the disposition of a Report and whether such Report demonstrates a legitimate basis to warrant an Investigation.

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“**Complainant**” means the person or entity making an allegation or complaint of Misconduct.

“**Evidence**” means any type of proof that tends to establish, prove, or disprove a fact material to the case. It includes, but is not limited to, oral testimony and written statements of witnesses, including experts on technical matters; documents; electronic, audio, and video records, if legally obtained; photographs; and biological evidence, such as blood, hair and bodily fluids.

“**Investigation**” means a detailed inquiry and examination of Evidence to objectively determine the facts following the receipt of an allegation or complaint.

“**Lead Examiner**” means one or more internal or external representative or representatives of Broward Health or a department thereof who lead(s) Investigations or inquiries into allegations of Misconduct and who is responsible for the internal investigative reports and/or results.

“**Misconduct**” means a failure by a Workforce Member to comply with the standards of conduct prescribed by Broward Health and otherwise imposed under state and federal law including, without limitation, Florida’s Code of Ethics for Public Officers and Employees (ch. 112, pt. III, Florida Statutes), Broward Health’s Code of Conduct, Broward Health’s Policies and Procedures, and other federal and state laws.

“**Report**” means the intake form, regardless of origination, that contains the allegations and complaints.

“**Senior-Level Members**” means Board Members, officers of Broward Health, and other high-level Workforce Members as determined by the President/CEO.

“**Subject**” means the person or entity who is the focus of the Investigation either by virtue of an allegation made or Evidence gathered during the course of an Investigation.

“**Workforce Member**” means any employee, independent contractor, agent, trainee, or other person who performs work for or on behalf of Broward Health. This includes full-time, part-time, and pool employees; associates; directors; officers; managers; supervisors; members of the Board of Commissioners of North Broward Hospital District and members of standing committees; medical staff employed by or otherwise affiliated with Broward Health; and others receiving training at any Broward Health facility; and others who provide goods or services to Broward Health.

### **III. Procedures**

#### **1. General Standards**

- a. No Committee member or Lead Examiner shall have an actual or potential conflict of interest, and all Committee members and Lead Examiners shall always be impartial, unbiased, and shall have the ability to act independently.
- b. Lead Examiners shall be able to conduct the Investigation with integrity, fairness, and diligence and shall be free from improper influence and/or fear of retaliation.

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- c. The Lead Examiner shall possess the proper knowledge, training, skills, and experience to conduct the Investigation consistent with subject-matter “best practices” to conduct Investigations thoroughly, diligently, and competently.
- d. All Investigations should be conducted expeditiously and completed within a reasonable time period based upon the nature of the Investigation and the Lead Examiner shall verbally report the findings of the Investigation to the President/CEO, or his or her designee, as directed.
- e. Investigative findings may never be based on personal or subjective opinion and shall only be based on facts and reasonable inferences derived therefrom.
- f. Every Workforce Member shall ensure internal confidentiality, to the extent practicable and permitted by law, of all Reports, actions, interviews, and every part of any internal Investigation or inquiry. The violation of this mandated confidentiality shall be a violation of the Code of Conduct subject to disciplinary action.

**2. Complaints and Allegations**

- a. All Reports shall be received and accepted regardless of the source, including complaints from anonymous or confidential sources and, where practicable, be acknowledged.
- b. Reports may be written, verbal, and/or anonymous and may be received from citizens, patients, current or former employees, contractors, and other individuals.
- c. To the extent that a Report contains allegations that do not meet the criteria requiring further screening and review by the Committee and which can be handled through the normal chain of command and/or departmental procedure, it does not require the completion of a Uniform Incident Report (“UIR”) form. However, if a Report meets criteria for referral to the Committee and contains allegations outside the normal and routine process of internal complaints and allegations a UIR form shall be used to transcribe all the allegations therein. The UIR shall be both comprehensive and complete to allow for a reasonable assessment of the complaint(s) or allegation(s).
- d. To the extent a Report which meets the criteria for referral to the Committee is reported anonymously by telephone, it is the responsibility of Workforce Member who received the Report to fill out the UIR form for submission.
- e. All UIR’s shall be confidential to the extent practicable and permitted by law. Any violation of this mandated confidentiality shall be a violation of the Code of Conduct subject to disciplinary action.

**3. Screening, Assessment, and Routing**

All Reports shall be screened and assessed to determine whether the allegations warrant an Investigation and what procedures shall be followed. Investigations are conducted only when there is credible information showing Misconduct on the part of a Workforce Member.

- a. *Initial Screening:* The Chief Human Resources Officer, or his or her designee, in coordination with the Chief Compliance and Privacy Officer, or his or her designee, shall initially administratively assess and screen all completed UIR’s into one of four (4) categories:



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- i. The UIR fails to provide enough information to warrant either an Investigation or inquiry in which case the UIR is administratively dismissed as “Unsubstantiated” or “Unfounded.”
- ii. The UIR alleges an incident suitable for the normal and routine process of handling workforce conflicts or quality concerns and is accordingly routed to the appropriate supervisor/department for its attention and resolution;
- iii. To the extent the non-anonymous Complainant alleges circumstances in a UIR which qualify an action for whistle-blower status under Florida’s Whistle-blower’s Act (§ 112.3187, et seq., Florida Statutes) and Section 6.8 of the Codified Resolutions (“Codified Resolutions”) of the Board of Commissioners of North Broward Hospital District (“Whistle-blower Policy”), then the UIR shall be referred to the Office of the General Counsel for further review and the Investigation and procedures thereof—consistent with the Whistle-blower Policy—shall be supervised by the Office of the General Counsel; or
- iv. The UIR is submitted to the Committee for further review because:
  - (a) A Report is lodged against a Senior-Level Member of Broward Health and, consistent with Section 6.8 of the Codified Resolutions, the Committee is tasked with fact-finding and information gathering to determine whether there is a legitimate basis to warrant an Investigation;
  - (b) Allegations are made in a UIR that the Chief Human Resources Officer and the Chief Compliance and Privacy Officer (or their respective designees) determine warrant further review by the Committee; or
  - (c) The Chief Human Resources Officer and the Chief Compliance and Privacy Officer (or their respective designees) disagree as to whether or not further review is required.
- b. *Committee Review:* To the extent the Committee receives a UIR, the Committee shall conduct Committee screening and review and determine by majority vote whether further review and action is warranted. The Committee may make the following findings:
  - i. Where a UIR demonstrates a legitimate basis to warrant an Investigation based on the four (4) corners of the Report, the Committee shall assign a Lead Examiner to conduct an independent Investigation into the Report consistent with the Investigative Process below;
  - ii. Where a UIR alleges an incident suitable for the normal and routine process of handling workforce conflicts or quality concerns and is accordingly routed to the appropriate supervisor/department for its attention and resolution;
  - iii. Where a UIR fails to provide enough information to warrant either an Investigation or inquiry and the Report is dismissed as “Unsubstantiated”;
  - iv. Where a UIR, taken as true does not violate Broward Health’s standards, policies, and/or procedures, and the Report is dismissed as “Without Jurisdiction”; or
  - v. To the extent the non-anonymous Complainant alleges circumstances in a UIR which qualify an action for whistle-blower status under Florida’s Whistle-blower’s Act

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112.3187, et seq., Florida Statutes) and the Whistle-blower Policy, then the UIR shall be referred to the Office of the General Counsel for further review and the Investigation and procedures thereof—consistent with the Whistle-blower Policy—shall be supervised by the Office of the General Counsel.

**4. Investigative Process**

- a. Each department may establish their own investigative process consistent with this Policy and their subject-matter best practices.
- b. Lead Examiners must undergo proper training and possess the requisite knowledge, training, and skills in accordance with this Policy in order to be assigned an investigation.
- c. Investigations are not tools to be used as fishing expeditions. All Evidence shall be relevant and useful in documenting the facts and the conclusions of the case at hand. Information, Evidence, and data gathered during an Investigation shall be carefully documented and organized and shall be properly supported.
- d. All Evidence and information, whether inculpatory or exculpatory, shall be collected, recorded, and considered during the course of the Investigation and appropriate measures shall be taken to prevent unauthorized disclosure of investigative information.
- e. To the extent possible, interviews conducted by the Lead Examiner should be conducted by two (2) persons and all interviews shall be conducted at Broward Health’s Corporate Headquarters or another Broward Health facility or, to the extent it cannot be at a Broward Health location, at a public place or other neutral site or location.
- f. Subjects and/or other Workforce Members shall not interfere with the Investigation and shall abstain from withholding, destroying, or tampering with Evidence, and from influencing, coaching or intimidating the Complainant and/or witnesses.
- g. Lead Examiners shall take appropriate steps to secure or prevent the destruction of documents or other Evidence relevant to the Investigation.
- h. All Workforce Members shall cooperate fully and in good faith with the Investigation.
- i. If at any time there is potential Evidence of a violation of criminal, civil or administrative law, the Office of the General Counsel shall be immediately informed and shall have the opportunity to take supervision of the investigative process moving forward.
- j. During the Investigation, all Subjects of the Investigation have a right to:
  - i. A presumption of innocence throughout the Investigation;
  - ii. Be treated with fairness and respect;
  - iii. A professional, impartial, and thorough Investigation;
  - iv. Due care in the handling and sharing of confidential information during the course of the Investigation;
- k. Except to the extent that the course of the investigation leads to unfounded allegations, all Subjects of the Investigation shall, to the extent permitted under state and federal law, have a right to:
  - i. Be advised of the nature of the allegations and his or her role in the Investigation at the earliest time possible, but no later than at the time of the commencement of the Subject’s interview;

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- ii. Be interviewed during the course of the Investigation; and
  - iii. Be given the opportunity to explain his or her actions and to provide any documents or information that may be relevant to the factual determination of the matter, along with the names and details of any witnesses who may have relevant information.
- l. To the extent an Investigation is deemed to meet whistle-blower status, a preliminary Investigation shall be conducted and shall be supervised by the Office of the General Counsel. Such preliminary Investigation shall last no longer than ninety (90) days, unless otherwise extended by the President and Chief Executive Officer or, to the extent such allegation or complaint involves the President and Chief Executive Officer, by the District's Chief Compliance Officer, for good cause to determine whether there is probable cause to believe that a prohibited personnel action under Florida's Whistle-blower's Act or the Whistle-blower Policy has occurred.
- m. At the conclusion of the Investigation or inquiry, the Lead Examiner shall verbally report their findings to the President/CEO, or his or her designee, who may request a written report and who may take appropriate corrective action when warranted.
- n. The President/CEO or his or her designee may suspend or terminate an Investigation at any time should the President/CEO determine that the public interest would not be served by proceeding further; provided, however, that such Investigation shall not be terminated should any state or federal law or other regulatory or law enforcement agency require the continuation of such Investigation and the Lead Examiner shall fully cooperate to the extent any such regulatory or law enforcement agency becomes involved in the Investigation.
5. Access and Confidentiality
- a. While conducting an Investigation, the Lead Examiner shall have full and complete access to all relevant information, records, personnel, and property, to the extent permitted by applicable state and federal law and Broward Health's Policies and Procedures and other relevant rules and regulations.
  - b. The identity of the Complainant shall be confidential and exempt from the provisions of the public records laws to the fullest extent permitted by, and in accordance with the law including, but not limited to, the confidentiality requirements and exemptions set forth in sections 119.0713 and 112.3188 of the Florida Statutes.
  - c. Every aspect of the Investigation shall be kept confidential, to the extent practicable and permitted by law, during the course of the Investigation. For example, the Workforce Member shall not discuss or disclose the Investigation or their testimony to anyone except the Lead Examiner actively working on the Investigation. In no case may anyone working with the Lead Examiner discuss with the Subject, Complainant, witnesses, and/or any Workforce Members the nature of the Evidence requested or provided, or testimony given to Investigators.
  - d. Information shall only be disclosed as necessary by the legitimate needs of the Investigation. When determining the level of information that is appropriate to provide to others in the course of an Investigation, Lead Examiners shall seek to strike a balance between the legitimate need for information and the risk that the Investigation may be

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compromised, the Subject's reputation may be tarnished, and/or that witnesses and whistle-blowers may be subject to retaliation.

- e. Any violations of Sections 5.a-c or unauthorized disclosure of confidential Investigation information may result in disciplinary action up to and including termination from employment with Broward Health.

**IV. Related Policies**

## RESOLUTION FY21-11

### RESOLUTION ESTABLISHING PROCEDURES FOR HANDLING WHISTLE-BLOWER COMPLAINTS

**WHEREAS**, the North Broward Hospital District (the “District”) is a special tax district governed pursuant the laws of the State of Florida;

**WHEREAS**, the Florida Legislature has adopted the Whistle-blower’s Act, § 112.3187, *et seq.*, Florida Statutes, which protects public employees and independent contractors from retaliatory action for disclosing certain information pertaining to violations of law on the part of a public employer or independent contractor that creates a substantial and specific danger to the public’s health, safety, or welfare or for improper use of public office, gross waste of funds, or any other abuse or gross neglect of duty (“Whistle-blower Complaints”);

**WHEREAS**, section 112.3187(8)(b), Florida Statutes, permits local government entities, such as the District, to adopt, by resolution, an administrative procedure for handling Whistle-blower Complaints;

**WHEREAS**, the Board of Commissioners of North Broward Hospital District desires to adopt an administrative procedure for handling Whistle-blower Complaints to protect and encourage employees and independent contractors to report such information without fear of reprisal and adverse action;

**WHEREAS**, at all times it is the Board’s intent that the procedure set forth herein be interpreted consistently with the Whistle-blower’s Act and any other state laws governing the reporting and handling of such Whistle-blower Complaints, all as amended from time to time; and

**WHEREAS**, unless context otherwise requires, capitalized terms used but not defined herein have the meanings ascribed to such terms in the Amended and Restated Bylaws of the North Broward Hospital District, as amended from time to time.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Commissioners of North Broward Hospital District, that:

- 1. *Statement of Purpose.*** The following administrative procedure (“Whistle-blower Policy”) is hereby created to handle whistle-blower complaints to ensure the protection of individuals making complaints and to create a procedure ensuring the prompt and fair investigation and resolution of whistle-blower complaints which shall be a condition precedent to any civil action as provided in § 112.3187(8)(c).
- 2. *Statement of Policy and Intent.*** It is the intent of the Board of Commissioners of North Broward Hospital District (the “Board”) to prevent the North Broward Hospital District (the “District”) and its officers, employees, and independent contractors from taking any retaliatory action against an employee or applicant for employment who reports violations of law on the part of the District or independent contractor that creates a substantial and specific danger to the public’s health, safety, or welfare or from taking any retaliatory action against any person who discloses information alleging improper use of governmental office, gross waste of funds, or any other abuse or gross neglect of duty on the part of the District, a public officer, or employee.

**3. Definitions.** As used in this Whistle-blower Policy:

- (a) *Adverse personnel action* means the discharge, suspension, transfer, or demotion of any employee or the withholding of bonuses, the reduction in salary or benefits, or any other adverse action taken against an employee within the terms and conditions of employment by the District or its independent contractors.
- (b) *Appellate review body* means the group designated to conduct an appellate review pursuant to a request timely and properly filed by a complainant under the procedures of this Whistle-blower Policy.
- (c) *Applicant for employment* means an applicant for employment with the District or its independent contractors.
- (d) *District* means the North Broward Hospital District, a political subdivision of the State of Florida; any official, officer, facility, hospital, department, division, affiliate, subsidiary, or office of the District; or any boards or committees established by the Board of Commissioners of North Broward Hospital District or its President and Chief Executive Officer.
- (e) *Employee* means a person who performs services for, and under the control and direction of, or contracts with, the District or its independent contractors for wages or other remuneration.
- (f) *Findings of fact and conclusions of law memorandum* means the memorandum written by the review panel that contains the factual findings and legal conclusions based upon the record and evidence presented in the hearing along with a recommended and appropriate course of action and any other appropriate remedial action to be taken.
- (g) *Gross mismanagement* means a continuous pattern of managerial abuses, wrongful or arbitrary and capricious actions, or fraudulent or criminal conduct which may have a substantial adverse economic impact.
- (h) *Independent contractor* means a person, other than the District, engaged in any business and who enters into a contract with the District.
- (i) *Probable cause determination and findings of fact memorandum* means the memorandum written by the lead examiner or investigator following the preliminary investigation which contains the preliminary findings and conclusions of the lead examiner or investigator.
- (j) *Review panel* means the group designated to oversee and decide matters at the Whistle-blower hearing conducted pursuant to the procedures of this Whistle-blower Policy.

**4. Actions Prohibited.**

- (a) The District or independent contractor shall not dismiss, discipline, or take any other adverse personnel action against an employee for disclosing information pursuant to the provisions of this Whistle-blower Policy.

- (b) The District or independent contractor shall not take any adverse action that affects the rights or interests of a person in retaliation for the person's disclosure of information under this Whistle-blower Policy.
  - (c) The provisions of this Whistle-blower Policy shall not be applicable when an employee or person discloses information known by the employee or person to be false.
5. *Nature of Information Disclosed.* The information disclosed that constitutes a whistle-blower complaint subject to the provisions of this Whistle-blower Policy must include:
- (a) Any violation or suspected violation of any federal, state, or local law, rule, or regulation committed by an employee or agent of the District or independent contractor which creates and presents a substantial and specific danger to the public's health, safety, or welfare; or
  - (b) Any act or suspected act of gross mismanagement, malfeasance, misfeasance, gross waste of public funds, or gross neglect of duty committed by an employee or agent of the District or independent contractor.
6. *To Whom Information Disclosed.* The information disclosed under this Whistle-blower Policy must be disclosed to the President and Chief Executive Officer of the District or his/her designee, pursuant to procedures established by the President and Chief Executive Officer.
7. *Employees and Persons Protected.* This Whistle-blower Policy protects employees and persons who disclose information on their own initiative in a written and signed complaint or in a non-anonymous complaint through the District's Corporate Compliance and Ethics Department; who are requested to participate in an investigation, hearing, or other inquiry conducted by the District or other government entity; who refuse to participate in any adverse action prohibited by this Whistle-blower Policy; or who is otherwise a protected class under Florida's Whistle-blower Act, § 112.3187(7), Florida Statutes. The provisions of this Whistle-blower Policy may not be used by a person while he or she is under the care, custody, or control of the state correctional system or, after his or her release from the care, custody, or control of the state correctional system, with respect to circumstances that occurred during any period of incarceration. No remedy or other protection under this Whistle-blower Policy or §§ 112.3187-112.31895, Florida Statutes, applies to any person who has committed or intentionally participated in committing the violation or suspected violation for which protection under this Whistle-blower Policy is being sought.
8. *Remedies and Procedures.*
- (a) Any employee or other person protected under this Whistle-blower Policy or Florida's Whistle-blower Act, shall have the right to file a complaint as detailed herein within sixty (60) days after the action, which is prohibited under this Whistle-blower Policy or Florida's Whistle-blower Act, takes place and, provided such complaint is timely filed, such individual shall have the right to have their whistle-blower complaint be heard by a review panel of at least three (3) impartial persons appointed by the District.

- (b) To the extent practicable and as allowable by state and federal law, the complainant, the subject of the complaint, and, as applicable, any other relevant individuals shall be provided copies of any complaint filed under the provisions of this Whistle-blower Policy.
- (c) The President and Chief Executive Officer of the District shall establish a procedure for receipt and investigation of whistle-blower information, allegations, and complaints by employees or applicants for employment who are discharged, disciplined, or subjected to other adverse personnel action, or denied employment, because he or she engaged in an activity protected by this Whistle-blower Policy or Florida's Whistle-blower Act, as well as procedures pertaining to investigations into allegations of retaliatory adverse actions received from members of the public. The procedure shall provide for a preliminary investigation lasting no longer than ninety (90) days, unless extended by the President and Chief Executive Officer or, to the extent such allegation or complaint involves the President and Chief Executive Officer, by the District's Chief Compliance Officer, for good cause to determine whether there is probable cause to believe that a prohibited personnel action under this Whistle-blower Policy, has occurred. Any such procedure shall also provide for the review of all such allegations and complaints, as well as supervision of any such investigation, by the District's Office of the General Counsel.
- (d) Any preliminary investigation conducted regarding complaints and allegations violative of this Whistle-blower Policy shall be concluded with a probable cause determination and findings of fact memorandum. Such memorandum shall be presumed admissible in any hearing conducted under this Whistle-blower Policy and shall be forwarded to the appointed review panel and, to the extent practicable and permissible under state and federal law, to the complainant, the subject of the complaint, and any other relevant and interested individuals.
- (e) *Whistle-blower hearings.*
  - (i) All hearings conducted shall be commenced insofar as is practicable within sixty (60) days following the conclusion of the preliminary investigation and probable cause determination and findings of fact memorandum, except that the President and Chief Executive Officer or, to the extent such allegation or complaint involves the President and Chief Executive Officer, the District's Chief Compliance Officer, shall have the authority to extend such time for reasonable cause.
  - (ii) A review panel of at least three (3) impartial persons shall be appointed by the President and Chief Executive Officer of the District or, to the extent such allegation or complaint involves the President and Chief Executive Officer, by the District's Chief Compliance Officer. Officers, employees, and other members of the District may be appointed to serve on the review panel provided such staff were not personally involved in the case and are not in the relevant chain of command for the parties involved.
  - (iii) A hearing under this Whistle-blower Policy shall be conducted after notice to the complainant and, to the extent practicable and not otherwise prohibited by state or federal law, the individual, official, officer, facility, hospital, department, division,



affiliate, subsidiary, or office of the District involved. Such notice shall state the time, place, and date of the hearing.

- (iv) All interested parties to the action are entitled to present relevant evidence, records, and testimony of witnesses, and are entitled to obtain legal counsel, at such parties' own cost, to represent such parties' interests at the hearing. The rules of evidence need not be strictly enforced but any and all such evidence presented shall only be admissible and considered if such evidence is relevant to the matter giving rise to the action(s) prohibited under this Whistle-blower Policy or Florida's Whistle-blower Act. The President and Chief Executive Officer or, to the extent such allegation or complaint involves the President and Chief Executive Officer, the District's Chief Compliance Officer may appoint a neutral hearing examiner to consider issues of procedural posture of the hearing consistent with this Whistle-blower Policy and the admissibility of evidence presented. If no such hearing examiner is appointed, all evidentiary matters and matters of procedural posture shall be decided by the appointed review panel.
  - (v) Upon hearing the complaint, the review panel shall make findings of fact and conclusions of law for a final decision by the District. Such findings of fact and conclusions of law memorandum shall include, to the extent applicable, a recommended and appropriate course of action and any other appropriate remedial action to be taken in accordance with this Whistle-blower Policy or any other District policy or procedure.
  - (vi) The findings of fact and conclusions of law memorandum shall be provided, to the extent practicable and as allowable by state and federal law, to the complainant, the subject of the complaint, and, as applicable, any other relevant individuals no later than thirty (30) days following the conclusion of the hearing.
  - (vii) A complainant's right to a hearing under this Whistle-blower Policy shall be forfeited if the complainant fails, without good cause, to appear at such hearing.
  - (viii) Any employee of the District found to have retaliated against another District employee in violation of this Whistle-blower Policy, shall be considered to have committed a violation of the District's Code of Conduct and shall be subject to disciplinary action up to and including dismissal from District employment.
- (f) *Appeals.*
- (i) The complainant and any interested party(ies) may appeal the decision of the review panel within thirty (30) days of the issuance of the findings of fact and conclusions of law memorandum by the review panel. Such appeal must be delivered to the President and Chief Executive Officer with a copy to the District's Office of the General Counsel. To the extent an appeal is not timely filed, such appeal shall be deemed waived unless otherwise extended by the President and Chief Executive Officer or, to the extent such allegation or complaint involves any individual who reports directly to the Board, the Board for good cause.

- (ii) The appellate review panel shall include any individuals appointed to oversee matters of appeal under this Whistle-blower Policy. The President and Chief Executive Officer, or his or her designees, shall hear appeals of all matters for non-Board reports and the Chair of the Board, or Vice-Chair if the Chair is unavailable, shall hear appeals of all matters of all direct-Board reports. In lieu of hearing a direct appeal, the President and Chief Executive Officer may delegate such authority to one (1) or more impartial individuals to consider the matters on appeal. Notwithstanding the foregoing, the Board may delegate the authority to another Board member to consider any matters on appeal.
  - (iii) To the extent an appeal is timely filed in accordance with the requirements above, an appeal shall be held as soon as reasonably practicable, but in no event less than fifteen (15) days and no longer than ninety (90) days following the filing of the appeal, unless otherwise extended by the President and Chief Executive Officer or, to the extent such allegation or complaint involves any individual who reports directly to the Board, the Board for good cause.
  - (iv) The proceedings by the appellate review body shall be in the nature of an appellate review based upon the record of the hearing before the review panel, the review panel's findings of fact and conclusions of law memorandum, and all subsequent results and actions thereof. The appellate review body also shall consider any written statements submitted. All written statements shall be submitted no later than fifteen (15) days prior to the scheduled appellate hearing unless otherwise waived by the appellate review body for good cause. All written statements shall also be served on all opposing parties. Written statements by the appellant shall describe the findings of fact, conclusions and procedural matters with which the appellant disagrees, and the reasons for such disagreement. New matters not raised or presented at the original hearing may not be presented at the appellate review unless otherwise waived by the appellate review body.
  - (v) The appellate review body may, at its discretion, allow the aggrieved parties or their representatives to appear and make oral statements and answer any questions posed to them by the appellate review body. To the extent the appellant fails to appear after an appearance by the appellate review body is requested, such appeal shall be dismissed with prejudice and the decision of the review panel shall be final, unless otherwise waived by the appellate review body for good cause.
  - (vi) The appellate review body may affirm, modify, or reverse the adverse result or action or, in its discretion, may refer the matter back to the review panel for further review and recommendation to be returned to it within a specified period of time.
  - (vii) Within sixty (60) days after the date of the appellate review or scheduled date of oral statements (as applicable), whichever date is later, the appellate review body shall render its final decision in the matter in writing and shall send notice thereof to the complainant and, as practicable and allowable under state and federal law, the subject of the complaint as well as any other relevant individuals.
- (g) Final decisions involving employees and officers who report directly to the Board shall be referred to the Board along with the findings of fact and conclusions of law memorandum

and applicable final rulings of the appellate review body for decisions regarding any further remedial measures and actions that need to be taken. All other final decisions shall be referred to the President and Chief Executive Officer along with the findings of fact and conclusions of law memorandum and applicable final rulings of the appellate review body for decisions regarding any further remedial measures and actions that need to be taken.

(h) The issuance of the appellate review body's final ruling or, to the extent such appeal is waived, the review panel's findings of fact and conclusions of law memorandum shall be the final decision regarding the matter(s) under review, shall be immediately effective, and such matter(s) shall not be subject to any further review.

(i) The foregoing procedure shall be a condition precedent to any civil action pursuant to § 112.3187(8)(c).

**9. Relief.** In any case brought under this Whistle-blower Policy in which it is found that prohibited conduct occurred in violation of this Whistle-blower Policy, the President and Chief Executive Officer or, to the extent applicable, the Board may:

(a) Reinstatement an employee to the same position held before the adverse action was commenced, or to an equivalent position or reasonable front pay as alternative relief;

(b) Reinstatement an employee's full fringe benefits and seniority rights, as appropriate;

(c) Compensate, if appropriate, for lost wages, benefits, or other lost remuneration caused by the adverse action;

(d) Any other relief permitted under the Whistle-blower Act or under state or federal law; or

(e) Any other relief deemed to be appropriate under the circumstances.

**10. Defenses.** It shall be an affirmative defense to any action brought pursuant to this Whistle-blower Policy that the adverse action was predicated upon grounds other than, and would have been taken absent, the employee's or person's exercise of rights protected by this Whistle-blower Policy.

**11. Existing Rights.** This Whistle-blower Policy does not diminish the rights, privileges, or remedies of an employee under any other law or rule or under any collective bargaining agreement or employment contract; however, the election of remedies in § 447.401, Florida Statutes, also applies to whistle-blower actions.

**12. False Complaints.** In addition to disciplinary action up to and including termination from employment, any individual who provides false information pursuant to this Whistle-blower Policy may be investigated and prosecuted for violations under Florida law, including but not limited to, § 837.06 (False Official Statements); § 838.022 (Official Misconduct); and § 837.05 (False Reports), of the Florida Statutes.

**13. Confidentiality of Individuals.** The identity of such individuals reporting violations under this Whistle-blower Policy shall be confidential and exempt from the provisions of Florida's public records laws to the fullest extent permitted by, and in accordance with, the law including, but

not limited to, the confidentiality requirements and exemptions set forth in §§ 119.0713 and 112.3188 of the Florida Statutes.

14. *Training and Information.* The President and Chief Executive Officer shall establish a procedure to provide periodic training regarding the provisions of this Whistle-blower Policy and the requirements herein to all District employees and officials.
15. *Rules and Procedures.* The President and Chief Executive Officer is hereby authorized to promulgate such rules and procedures necessary to effectuate the intent of this Whistle-blower Policy.
16. The aforementioned procedure shall be codified as Section 6.8 in the Codified Resolutions of the Board of Commissioners of the North Broward Hospital District.
17. This resolution hereby supersedes, amends, replaces and repeals any conflicting resolution or conflicting policy previously adopted by the Board.

**DULY ADOPTED** this \_\_\_ day of January, 2021.

Time Adopted \_\_\_\_\_ PM