

## **The Museum of Modern Art Policy and Procedures for Complaints Concerning Violations of Museum Policies or Of Ethical or Financial Misconduct**

### **A. Policy for Complaints Concerning Violations of Museum Policies or Ethical and Financial Misconduct**

The Museum of Modern Art (the “Museum”) is committed to the highest standards of institutional integrity. It seeks to adhere to all applicable financial and other laws and regulations, to exercise the highest level of care in its accounting and auditing practices and to comply with its other policies, including but not limited to, those policies pertaining to conflicts of interest, anti-harassment, anti-discrimination, political participation, gifts and the like.

The Museum treats complaints and concerns about violations of law and all Museum policies, as well as questionable accounting, auditing, or other financial practices and ethical matters seriously and will investigate such complaints and concerns fully and expeditiously. Moreover, the Museum’s Trustees, officers, employees and volunteers have an affirmative duty to report such complaints. If a Trustee, officer, employee or volunteer observes, learns or in good faith believes that a law or a Museum policy has been violated, he or she must report the violation immediately, as set forth herein or in accordance with the specific policy, as applicable.

The Museum encourages individuals who submit complaints to identify themselves, with the assurance that such matters will be handled as confidentially as possible, to the extent consistent with the Museum’s interests and in accordance with its legal obligations. Complaints may be made anonymously, however, and in such circumstances the Museum will not try to discern the identity of the person who made the complaint.

The Museum prohibits intimidation, harassment, discrimination or other retaliation, or, in the case of employees, adverse employment consequences, against an individual covered by this policy who, in good faith, makes a complaint, voices a concern or provides assistance to an investigation hereunder, even if the complaint proves to be without merit. However, individuals who knowingly make false complaints or provide information that they do not reasonably believe to be true may be subject to disciplinary action.

The Museum, through its Board of Trustees, has established the procedures set forth below for the submission, investigation and resolution of complaints as well as procedures to protect confidentiality hereunder.

### **B. Procedures for Making Complaints**

#### **1. Scope**

These procedures apply to the reporting of violations of law and of other Museum policies, including but not limited to conflicts of interest, anti-harassment, anti-discrimination, political participation, gifts and the like, as well as complaints or concerns about misconduct of a financial or ethical nature pertaining to the Museum and its assets. The reporting procedure set forth below applies to any such violations. For reporting matters pertaining to harassment, discrimination, conflicts of interest, political participation or gifts to the Museum, or other Museum policies, please consult the applicable policy. Individuals

responsible for receiving reports made in accordance with any such policies are required to report them to the General Counsel, the designated administrator hereunder, except with respect to a report relating to the General Counsel.

Matters pertaining to questionable accounting, auditing, or other financial practices and ethical matters to be reported under this policy include, but are not limited to:

- Financial fraud, including bank fraud, or fraudulent statements to any governmental entity;
- Intentional or grossly negligent misstatements, misrepresentations, falsifications, deception, or fraud in preparing, reviewing or auditing any financial statement or report of the Museum;
- Significant deficiencies in or intentional noncompliance with the Museum's internal accounting controls;
- Theft of Museum assets or embezzlement;
- Violations of the Museum's prohibitions against self-dealing, misuse of Museum resources, and other conflict of interest situations;
- Violations of applicable laws, rules and regulations related to accounting, internal accounting controls, auditing and financial matters;
- Retaliation against individuals who submit complaints or voice concerns about any of the above in good faith.

## 2. Complaint Process

Any person may submit a complaint under this or other Museum policy using one of the following methods:

- (i) By calling the Museum's confidential Complaints Hotline, available 24 hours a day, seven days a week at (866)-873-9853, or by visiting the confidential Ethics and Financial Complaints Website at [www.ethicspoint.com](http://www.ethicspoint.com), and in either case filing a complaint, which may be submitted anonymously;
- (ii) By speaking directly to the Museum's General Counsel or writing to him/her at the following address: General Counsel, The Museum of Modern Art, 11 West 53<sup>rd</sup> Street, New York, New York 10019;
- (iii) A complaint related to conduct by the General Counsel should be directed to the Director of the Museum.

If an employee makes a complaint to a manager, whether orally or in writing, the manager must promptly report it to the General Counsel, while noting all requests for confidentiality.

Individuals who submit complaints and concerns are encouraged to identify themselves and provide contact information so that they can be contacted for additional information, if necessary, and so that the matter may be more easily and fully investigated. However,

complaints may be made anonymously. Anonymous complaints will be investigated to the greatest extent possible.

If an individual submitting a complaint or concern identifies him or herself and provides contact information, the General Counsel will acknowledge receipt of the complaint or concern.

C. Investigation

If a complaint is made through the hotline or the web site, the information will be reported promptly to the General Counsel. The General Counsel will review and investigate the complaint, together with appropriate members of management and/or, as the case may be, the Audit Committee of the Board of Trustees. In addition, the General Counsel may consult or request assistance from members of the Board of Trustees, management staff, or volunteers believed to have appropriate expertise or information to assist in the investigation or disposition of the complaint. The General Counsel may also engage outside auditors, counsel or other experts to assist in the investigation and in the analysis of results. Individuals covered by this policy are required to cooperate in the investigation of a complaint. Employees of the Museum may not, however, be present at or participate in Board or Board Committee (as applicable) deliberations or voting related to the complaint, except, upon request of the Board or Board Committee, to present background information or answer questions in advance of deliberations or voting.

D. Resolution

When the investigation is concluded, the General Counsel, in collaboration with appropriate members of management and/or the the Board of Trustees, as the case may be, will determine whether corrective measures are warranted and, if so, set a schedule for their implementation.

The General Counsel shall report the results of an investigation and proposed corrective measures, if any, to the Board of Trustees or the appropriate designated Board Committee, in accordance with section E, below. If the complainant's identity is known, he or she will be notified about what actions will be taken, to the extent reasonably possible and consistent with any privacy or confidentiality limitations. If no further action or investigation is to follow, an explanation for the decision will be provided to the complainant. Employees of the Museum shall not be permitted to participate in any Board or Board Committee deliberations or voting relating to the administration of this Policy.

E. Reports to Audit Committee

At all regularly-scheduled Audit Committee meetings, and whenever else the Audit Committee may direct, the General Counsel will report on the status of all open complaints. The report should list (a) all new complaints and complaints still open at the time of the report, regardless of when made (including minor complaints or complaints that are ultimately found to be without merit); and (b) the results of all investigations not previously reported; and (c) the disposition of all complaints not previously reported. The General Counsel and the Audit Committee shall report on open complaints and related deliberations to the Board of Trustees.

#### F. Distribution

A copy of this policy shall be distributed to all Trustees, officers, employees and volunteers who provide substantial services to the Museum.

#### G. Non-Retaliation

As set forth above, the Museum prohibits retaliation against any person for making a complaint in good faith pursuant to this policy or for providing assistance to the General Counsel, Museum staff, the Audit Committee or the Trustees, law enforcement officers, governmental bodies, or persons otherwise investigating the complaint. Retaliation against an individual on this basis is a violation of these procedures and anyone who so retaliates may be subject to disciplinary action, termination of employment or position on the Board, civil legal action or criminal penalties.

#### H. Protection and Retention of Records

In appropriate circumstances, records relevant to a complaint will be assembled and secured as soon as possible to protect against alteration, mutilation, destruction or concealment.

All documents related to complaints, including reports to the Audit Committee, are confidential. Access to such documents will be granted at the discretion of the General Counsel or pursuant to appropriate legal process.

#### I. Adoption; Implementation and Compliance

The Board of Trustees may make changes to this Policy from time to time, as it deems appropriate. The Board will oversee the implementation of, and compliance with, this Policy.