

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

**A. Policy for Ethical and Financial Complaints**

The Museum of Modern Art (the "Museum") is committed to the highest standards of institutional integrity. It seeks to adhere to all applicable financial laws and regulations, to exercise the highest level of care in its accounting and auditing practices and to comply with its conflict of interest policy.

The Museum treats complaints and concerns about questionable accounting, auditing, or other financial practices or ethical matters seriously and will investigate such complaints and concerns expeditiously. Moreover, the Museum's Trustees and employees have an affirmative duty to report such complaints. If a Trustee or employee observes, learns or in good faith believes that the Museum's conflict-of-interest or financial policies have been violated, he or she must report the violation immediately.

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

The Museum prohibits retaliation against an employee or other person who, in good faith, makes a complaint, voices a concern or provides assistance to an investigation under this policy, even if the complaint proves to be without merit. However, employees who knowingly make false complaints or provide information that they do not reasonably believe to be true may be subject to disciplinary action, up to and including termination of employment.

The Museum has established the procedures set forth below for the submission, investigation and resolution of complaints of a financial or ethical nature.

**B. Procedures for Making Complaints**

**1. Scope**

These procedures apply only to the reporting of complaints or concerns about misconduct of a financial or ethical nature pertaining to the Museum and its assets. Complaints or concerns about other matters (related to the Museum's anti-harassment or anti-discrimination policies, for example) should be reported in accordance with the procedures set forth in the Code of Conduct, e.g. to the Department of Human Resources or to the Deputy Director of Policy, Planning and Administration.

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 using one of the following methods:

- (i) By calling the Museum's confidential Ethics and Financial 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, Attention "Ethical and Financial Complaints -- Personal and Confidential," 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, and the complaint involves conduct falling under this policy, 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 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.

### **3. 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 the complaint and, together with appropriate members of management and/or, as the case may be, the Audit Committee, determine how to investigate the matter. In determining the manner in which a complaint should be investigated, the General Counsel will consider, among other things, the seriousness of the alleged wrongdoing and the credibility of the allegation of wrongdoing. The subject(s) of the complaint may be notified of the investigation, in the General Counsel's discretion, as the circumstances require. Employees are required to cooperate in the investigation of a complaint.

In addition, the General Counsel may consult or request assistance from members of the Board, management or staff 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.

### **4. Resolution**

When the investigation is concluded, the General Counsel and appropriate members of management and/or the Audit Committee, as the case may be, will determine whether corrective measures are warranted and, if so, set a schedule for their implementation. Such corrective measures may include, for example, employment sanctions (including termination), discussions with law enforcement or governmental bodies, or the implementation of new auditing, accounting, financial or ethics-related policies. The General Counsel may also recommend corrective measure before an investigation is fully completed if he or she deems it appropriate to do so.

If the General Counsel determines that no corrective measures are necessary, he or she will report the matter to the Audit Committee in accordance with section 5, below. If the complainant's identity is known, the General Counsel may inform him or her of the resolution, if the General Counsel determines that it is appropriate to do so. If the General Counsel deems it appropriate and/or the circumstances so require, the subject(s) of the complaint may be notified of the resolution.

### **5. 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 Audit Committee shall review, and have oversight responsibility for, all complaints, investigations and resolutions.

**6. Non-Retaliation**

The Museum will not retaliate against any person for making a complaint in good faith pursuant to this policy or for providing assistance to 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.

**7. 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.

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