

DISTRICT OF COLUMBIA HEALTH BENEFIT EXCHANGE HBX COMPLIANCE POLICIES AND PROCEDURES

I. INTRODUCTION AND STATEMENT OF PURPOSE

These Compliance Policies and Procedures establish a plan for the District of Columbia Health Benefit Exchange Authority (“HBX”) to comply with applicable District and federal laws.

Under D.C. Official Code §31-3171.08(c)(3) the Executive Director, under the direction of the Executive Board, is charged with the performance of all duties necessary to comply with and carry out the provisions of the DC Health Benefit Exchange Authority Establishment Act, other District laws and regulations, and the Patient Protection and Affordable Care Act (124 Stat. 119), as amended by the Health Care and Education Reconciliation Act of 2010 (124 Stat. 1029). Consistent with these provisions, it is the policy of the HBX to: (1) ensure that employees, the Executive Director, and Executive Board members receive adequate training on applicable laws and compliance with these laws; (2) foster an environment that encourages and enables employees to report non-compliance without fear of retribution; (3) ensure that mechanisms exist to enable reporting, investigation, and correction of non-compliance; (4) conduct monitoring and periodic auditing of compliance with applicable laws; and (5) ensure that acts of non-compliance are appropriately addressed.

II. COMPLIANCE STRUCTURE

- A. The HBX shall maintain a Compliance Team whose membership is a Compliance Officer, an Ethics Officer, a Privacy and Security Officer, a FOIA Officer, and HBX Managers.
 - 1. The positions of Compliance Officer, Ethics officer and/or FOIA Officer may be held by one or more HBX employees. The positions of Compliance Officer and Privacy and Security Officer shall not be held by the same employee. The position of Compliance Officer shall not be held by the Executive Director or the General Counsel.

- B. Compliance Officer.
 - 1. The Compliance Officer is responsible for the development, operation, and monitoring of the compliance program in coordination with HBX managers and staff.
 - 2. The Compliance Officer shall develop and maintain Policies and Procedures and ensure that employees have access to him or her to seek guidance on compliance or report suspected non-compliance.

3. The Compliance Officer shall, in coordination with the Compliance Team, ensure that HBX employees and board members receive education and training as appropriate, monitor compliance, and investigate reports of non-compliance.
4. The Compliance Officer shall monitor changes in District and federal law and ensure that the HBX is in compliance with such changes. The Compliance Officer is not the subject matter expert on compliance matters. However, the Compliance Officer is responsible for the overall compliance program and ensuring that HBX Managers, the subject matter experts, assist in monitoring and educational activities.
5. The Compliance Officer reports to the General Counsel and has direct access to the Executive Director and other key personnel of the HBX, such as the Senior Deputy Director for Policy and Programs, the Senior Deputy Director for Operations, and the Agency Financial Officer.

C. Ethics Officer.

1. The Ethics Officer shall, in coordination with the DC Board of Ethics and Government Accountability (“BEGA”) as appropriate, arrange for initial and continuing education and training on applicable ethics and conflict of interest laws, provide individual guidance on ethics and conflict of interest matters, and investigate reports of non-compliance.

D. Privacy and Security Officer.

1. The Privacy and Security Officer shall create and maintain HBX policies on privacy and security to ensure that personally identifiable information and other sensitive information is protected and handled in compliance with applicable laws.
2. The Privacy and Security Officer shall arrange for training on privacy and security consistent with applicable District and federal law, provide individual guidance on privacy and security matters, monitor compliance, and investigate reports of non-compliance.

E. FOIA Officer.

1. The FOIA Officer shall ensure compliance with Freedom of Information Act (“FOIA”) requests.

F. HBX Managers.

1. HBX managers shall create and update HBX policies on applicable programmatic areas, serve as the subject matter experts for their programmatic areas, arrange for appropriate and applicable education and training, and monitor their respective teams for compliance with applicable federal and District law and HBX Policies and Procedures. The Compliance Officer shall support the HBX Managers in these efforts.
2. HBX Managers shall report compliance issues consistent with Section V.
3. If any management position is vacant, responsibility for compliance within a subject matter area rests with the position's manager.

III. EDUCATION AND TRAINING

- A. The Compliance Officer shall work with the Compliance Team to establish and arrange for initial and continuing education and trainings as appropriate to ensure compliance with applicable District and federal laws, as appropriate. The Compliance Officer shall monitor education and training activities.
 1. Members of the Compliance Team shall arrange for training opportunities on subject matter areas including, but not limited to, privacy and security, ethics, conflicts of interest, Affordable Care Act requirements, and other applicable District and federal requirements.
 2. The Compliance Team shall monitor activities in his or her subject matter area to identify where education or additional trainings are necessary or would be beneficial. In these cases, the manager shall:
 - a. Provide or arrange for education or training on that subject matter area for his or her staff and document the date and subject matter area addressed; or
 - b. Identify the education or training need to a member of the Compliance Team who will provide or arrange for appropriate education or training.
- B. The Compliance Team shall ensure that HBX employees and Executive Board members receive HBX Policies and Procedures and guidance as these materials are developed and updated.
- C. The Compliance Officer report shall provide a report to the General Counsel of HBX trainings no less than annually.

IV. REQUIRED REPORTING

- A. All HBX employees have the responsibility to comply with all applicable laws and regulations. Any employee who commits, witnesses, or reasonably believes an act of non-compliance has occurred is required to report the matter in a manner consistent with Section V.
- B. Employees are not required to, but are encouraged to talk to the General Counsel or appropriate member of the Compliance Team if an employee has questions about whether an issue should be reported. With regard to compliance with ethics and conflict of interest laws, employees may also talk to BEGA.
- C. The HBX will take steps to preserve the confidentiality of reports of non-compliance except as necessary to investigate the report or report it to the appropriate entities.
- D. Failure to report non-compliance will be subject to disciplinary action under 6-B DCMR §1600 *et seq.* HBX employees are protected under the DC laws governing whistleblowing at DC Official Code §1-615.51 *et seq.* Any acts of retaliation will be treated as any other instances of non-compliance.

V. REPORTING STRUCTURE

- A. Where to report matters under Section IV:
 - 1. To an immediate manager;
 - 2. To the Compliance Officer, the Privacy and Security Officer, or Ethics Officer, as appropriate;
 - a. HBX employees are encouraged to report matters related to ethics or conflicts of interest directly to the Ethics Officer and matters related to privacy and security directly to the Privacy and Security Officer.
 - 3. To the DC OIG hotline (for suspected fraud, waste and abuse) where reports may be made anonymously; or
 - 4. To the BEGA hotline (for suspected violations of DC ethics laws) where reports may be made anonymously, as applicable.

- B. HBX Managers are required to immediately report suspected or confirmed acts of non-compliance to:
1. His or her immediate manager, if applicable;
 2. The Compliance Officer, the Privacy and Security Officer, or the Ethics Officer, as appropriate; or
 3. The DC OIG or BEGA anonymous hotline, as applicable.
- C. The Compliance Officer, the Privacy and Security Officer, and Ethics Officer shall report to the General Counsel regarding day-to-day compliance issues.
1. Compliance Officer, the Privacy and Security Officer, and Ethics Officer shall report any suspected or confirmed acts of actionable or reportable non-compliance to the General Counsel as soon as practicable, but in no case later than 24 hours after identifying the non-compliance.
 2. Compliance Officer, the Privacy and Security Officer, and Ethics Officer shall report other suspected or confirmed acts of non-compliance to the General Counsel periodically as determined by the General Counsel.
 3. In the event that Compliance Officer, the Privacy and Security Officer, or Ethics Officer cannot report to the General Counsel on a given act of non-compliance, the Compliance Officer, the Privacy and Security Officer, or Ethics Officer shall report the specific act of non-compliance to the Senior Deputy Director for Policy and Programs, the Agency Financial Officer, Senior Deputy Director for Operations, or the Executive Director, in a manner consistent with this Section.
- D. The General Counsel's reporting duty includes:
1. The General Counsel shall report all suspected or confirmed reportable or actionable acts of non-compliance to the Executive Director as soon as practicable and keep the Executive Director apprised of related on-going investigations.
 2. The General Counsel shall report suspected or confirmed reportable or actionable acts of non-compliance to the Senior Deputy Director for Policy and Programs, the Agency Financial Officer, Director of Information Technology, and/or Senior Deputy Director for Operations as appropriate.

3. The General Counsel shall not report to the Executive Director on compliance matters directly involving the Executive Director. In such cases, the General Counsel shall report suspected or confirmed acts of reportable or actionable non-compliance to the Executive Board Chairperson.
- E. The Executive Director or designee shall report as soon as practicable confirmed reportable or actionable acts of non-compliance to the Executive Board Operations Committee or Executive Board.
- F. The Compliance Officer, the Privacy and Security Officer, the Ethics Officer, or General Counsel shall report acts of non-compliance to District and federal agencies as required by law.

VI. INVESTIGATIONS AND AUDITS

- A. The Compliance Team shall ensure that every report of suspected non-compliance is investigated.
1. The Privacy and Security Officer shall investigate reports related to privacy and security.
 2. The Ethics Officer shall investigate reports related to ethics and conflicts of interest.
 3. The Compliance Officer may investigate or refer a report of non-compliance to a more appropriate area of the HBX for investigation (for example, to the Chief Financial Officer).
 4. Reports submitted to the BEGA or OIG Hotlines will be addressed by those bodies in accordance with their applicable laws and policies and procedures.
- B. Investigations shall be conducted promptly and may include:
1. Interviews of employees and contractors;
 2. Review of documents, including memorandums, correspondence, contracts, and other documentation as appropriate; and

3. Consultation with the General Counsel, the Executive Director, or others as appropriate.
- C. All HBX employees are required to fully cooperate with investigations. Failure to cooperate may result in disciplinary action consistent with District law.
- D. The Compliance Officer, the Privacy and Security Officer, or Ethics Officer, as applicable, shall create a written record for investigations involving actionable or reportable acts of non-compliance.
1. Investigation records will be made available only as necessary for reporting within the HBX and to District or federal agencies, and as required by law.
- E. The Compliance Officer, Privacy and Security Officer, and Ethics Officer are authorized to conduct internal audits as needed.
1. Audits may be conducted on an ad hoc basis or may be conducted on a regular basis, as appropriate.
 2. The Compliance Team shall create a written record for internal audits.
 3. All HBX employees shall fully comply with audits and make all documentation available as requested.
 4. Failure to comply with an audit may result in disciplinary action, consistent with applicable law.
 5. The Executive Director shall report findings from independent internal audits to the appropriate Executive Board Working Committee.
- F. The Compliance Team shall support compliance with external audits.

VII. SANCTIONS

- A. Confirmed acts of non-compliance may result in corrective actions and/or disciplinary action.
1. The Compliance Officer, the Privacy and Security Officer, or Ethics Officer, as applicable, may recommend corrective action or disciplinary action for confirmed acts of non-compliance to the General Counsel and the applicable manager.

2. The General Counsel may recommend sanctions to the Executive Director.
3. Sanctions shall be determined by the Executive Director.
 - a. The Executive Director may consider recommendations on sanctions from the General Counsel or Compliance Team.
 - b. The Executive Director may seek input on sanctions from the Executive Board Operations Committee.

B. Sanctions include:

1. Additional education or training requirements for individual(s) involved in acts of noncompliance;
2. A corrective action plan designed to address the specific act of non-compliance;
3. Monitoring to reduce the risk of repeated non-compliance; or
4. Disciplinary action as authorized under District law, including but not limited to admonition, suspension, or termination of employment.