CODES OF CONDUCT:
HOW TO ESTABLISH THE RIGHT TONE

It is important that nonprofit leaders maintain the highest ethical standards for their organizations. Given today’s difficult business climate and greater scrutiny of nonprofits, an organization’s reputation for integrity and good stewardship are more critical than ever.

One basic step an organization can take to establish and maintain high ethical standards is to adopt a code of conduct, also known as a code of ethics. The purpose of the code is to set forth the organization’s values and to make clear that everyone involved in the organization is expected to act in accordance with those values.

A. The Tone at the Top

The first step is for the Board to establish an appropriate “tone at the top.” The “tone at the top” refers to the ethical climate created in an organization by its leadership. Through their board leadership, directors can foster a climate whereby everyone – including directors, employees and volunteers - acts in a manner that upholds the highest ethical standards.

It is important that the Board foster this expectation for themselves and others. If directors appear unconcerned with maintaining high standards, this attitude could be observed and mirrored by employees and volunteers.

B. Duty of Obedience

The first expectation that the directors must meet and set for others is the duty of obedience. As part of the duty of obedience, directors, officers, employees and volunteers must act in a manner consistent with the code of conduct, as well with as the provisions of the organization’s articles of incorporation, bylaws, and the organization’s tax-exempt status. They should be familiar with the organization’s mission and strive to uphold that mission at all times. Finally, they must comply with all federal, state and District of Columbia laws as they apply to the organization.

C. Contents of the Code

The code of conduct summarizes the policies and priorities integral to the organization. Generally, the key components of a code of conduct are:

- **The conflict-of-interest policy.** Most organizations have adopted a conflict-of-interest policy for directors and officers. But what about the office manager? Should he
or she buy supplies from a brother-in-law’s company? Should the organization do business with a company that employs the CFO’s brother? The code of conduct should address these issues.

- **Human resource policies.** Certain human resource policies deal only with business issues, but others – such as policies prohibiting discrimination and harassment - speak to the moral character of an organization. By placing these policies in the code of conduct, the organization can highlight its commitment to them.

- **Financial integrity.** Nonprofit organizations must be good stewards of the donations they receive. Therefore, the code of conduct should call for everyone connected with the organization to adhere to the highest standards of financial integrity. For example, the code of conduct should address whether employees may receive gifts from vendors; when the organization will reimburse the expenses incurred by directors, officers, employees and volunteers; and the importance of filing accurate financial reports.

- **Nonprofit requirements.** In addition to complying with the same legal requirements as other organizations, nonprofits have special legal standards they must meet with respect to political activity and lobbying.

**D. Developing the Code**

The Board should take the lead in developing a code of conduct in order to demonstrate the Board’s support and commitment to the code. At the same time, the Board should work with senior management to develop a code that reflects the day-to-day activities of the organization.

Once the code of conduct is developed, it should be approved by the Board of Directors. The audit committee or a similar board committee should be responsible for updating the code of conduct when necessary and ensuring that the organization is in compliance.

Senior management should be responsible for communicating the code to the organization’s employees and volunteers. It is generally considered a good practice to have each employee sign a statement reflecting that he or she has received a copy of the code and has reviewed its contents. Thus, if an employer needs to terminate an employee for violating one of the code policies, the employee cannot claim that he or she never received a copy of it.

**E. Client Protections**

Many nonprofit organizations deal with vulnerable client populations. These include children, the elderly, victims of violence and abuse, and the homeless. Without proper safeguards in place, employees and volunteers may have the opportunity to take physical or financial advantage of these clients. Therefore, nonprofit organizations should develop a
code of conduct for staff and volunteers who interact with their clients.

Sometimes these safeguards are mandated by the government, either through laws and regulations, or by the provisions of a grant or government contract. For example, the D.C. government requires day-care centers to perform criminal background and child protection register checks on its employees. In other cases, it is up to the nonprofit to develop standards of conduct for its organization.

Many organizations have struggled with this issue. The most prominent example is the Roman Catholic Church, which for the past decade and more has dealt with cases of priests sexually abusing children. As a result, many organizations have taken steps to protect those in their charge, in order to prevent such incidents from happening within their organizations.

For example, the Boy Scouts of America performs background checks on all of its volunteers. As it states on its website:

The Boy Scouts of America takes great pride in the quality of its adult leadership. Being a leader in the BSA is a privilege, not a right. The quality of the program and the safety of youth members call for high-quality adult leaders. We work closely with chartered organizations to help recruit the best possible leaders for their units.

The adult application requests background information that should be checked by the unit committee or the chartered organization before accepting an applicant for unit leadership. While no current screening techniques exist that can identify every potential child abuser, we can help reduce the risk of accepting a child abuser by learning all we can about an applicant for a leadership position—including his or her experience working with children and why he or she wants to be a Scout leader.

The Boy Scouts of America have also adopted detailed procedures regarding the appropriate interaction of troop leaders and the boys that participate in the scouting movement.1

Similarly, groups working with the elderly often adopt a code of conduct, which includes such key concepts as:

- Protecting the client’s privacy;
- Being honest with the client;
- Never accepting gifts or tips;
- Never entering into a financial relationship with the client, such as lending or borrowing money from the client or witnessing their will;
- Never becoming personally or sexually involved with a client or his or her family; and
- Reporting suspected cases of elder abuse.

1 For a copy of the Boy Scouts of America policies, see the first four chapters in Guide to Safe Scouting at: http://www.scouting.org/scoutsource/HealthandSafety/GSS/toc.aspx
F. Implementing the Code

While it is important to develop a code of conduct, it is equally important to ensure that it is adhered to. There are several critical ways that a nonprofit can do so.

First, the nonprofit should incorporate the code of conduct into orientations for new board members, employees and volunteers. The nonprofit may also use board, staff and volunteer meetings as an opportunity to review different policies in the code, such as the policy about workplace harassment or the prohibition against engaging in political activities.

Next, compliance with the code should be incorporated into an employee’s work plan and performance appraisal. Finally, the employee or volunteer should be given an avenue by which to report violations of the code of conduct.

There are several ways a nonprofit can provide employees with a way to report violations. For example, the organization’s sexual harassment policy should set out a procedure for reporting instances of sexual harassment. The employee should have at least two individuals to whom the employee can make a complaint. In a small nonprofit, this should include a board member for those cases where the executive director may be engaging in inappropriate behavior.

In addition, the IRS encourages every nonprofit to adopt a whistleblower’s policy. This is another vehicle by which an employee may report violations of the law as well as important organizational policies. The whistleblower policy should be incorporated into the organization’s code of conduct and be reviewed with the employee or volunteer along with the code itself.

G. Sample Policies and Other Resources

For copies of sample codes of conduct or codes of ethics, please go to:


http://www.scouting.org/scoutsOURCE/HealthandSafety/GSS/gss01.aspx  (Boy Scouts of America Guide to Safe Scouting)

For more information about this topic, please see:

http://www.boardsource.org  (BoardSource website)
The following is a sample document for nonprofit organizations incorporated in the District of Columbia only. It is intended only for corporations seeking to qualify as tax-exempt organizations under Section 501(c)(3) of the Internal Revenue Code. This sample is provided only for informational purposes and does not provide specific legal advice for any individual situation. Some or all of this document may not be appropriate for your organization. The sample also reflects the provisions of the Internal Revenue Code and the laws of the District of Columbia as of the date it is written. However, laws change. Only an attorney with knowledge of your particular situation can provide the legal assistance you need.

Sample Code of Conduct

At [Insert name of organization] (the “Organization”) we need guidance in setting shared standards, developing good business practices, and living up to our organizational core values. Each of us is expected to maintain the highest standard of ethical conduct when acting on behalf of the Organization. We are responsible for knowing the laws and regulations of the localities in which we operate or for which we are responsible, as well as the Organization’s policies that apply to our work and by which we are expected to abide. Leadership has the added responsibility of setting a good example and being accountable for the actions of anyone who reports to them. If you have any questions, talk to your supervisor or ________________.

You are expected to comply with both the letter and spirit of this Code of Conduct. It is your responsibility to seek clarification about the application of this policy to a specific situation.

It is your duty to report violations of law and the Code of Conduct. Contact your supervisor or ____________ if you believe a violation of law or of this policy has occurred. You will not lose your position or be mistreated for raising questions about the Organization’s policies and conduct.

You also are required to cooperate fully with any authorized internal or external investigations. Making false statements to or otherwise misleading internal or external auditors, legal counsel, or any person charged with handling the investigation is grounds for your immediate termination.

If you violate the law or the Organization’s policies, or deliberately withhold information during an ethics investigation, you will be subject to disciplinary action, possibly including termination.

If you have any further questions, you should consult the Organization’s Whistleblower policy for further information.

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BOOKS AND RECORDS

All of the Organization’s records must accurately and clearly reflect the facts of the underlying matter. All records must be kept so that an accurate, auditable record of all transactions is maintained in accordance with generally accepted accounting principles. Improper, intentionally incomplete, or fraudulent documentation or reporting is contrary to the Organization’s policy. No entries may be made to intentionally hide or disguise the true nature of any transaction or to create funds to be used for other purposes.

Information that you record and submit to other parties—whether inside or outside the Organization—must be accurate, timely, and complete. Reports cannot be used to mislead or conceal anything from their intended audience. This accuracy requirement applies to both financial and nonfinancial records such as worker’s compensation claims, safety statistics, and other reports.

All records must be maintained according to records management policy and the records retention schedule.

You must use common sense and observe standards of good taste regarding content and language when creating business records and other documents (such as e-mail) that may be retained by the Organization or a third party. You should keep in mind that at a future date, this record may become public.

COMPLIANCE WITH LAW

You are responsible for performing your duties in full compliance with all applicable laws and regulations. You may not knowingly participate in any act that violates an applicable law, rule, or regulation of any government, governmental agency, or regulatory body. If you believe that, as a matter of conscience, you cannot do something that you are asked to do, contact your supervisor or __________________. If you determine that you have unknowingly participated in any act that violates an applicable local, state, or federal law, you must report the violation as soon as possible to your supervisor or __________________________.

DIVERSITY AND EQUAL OPPORTUNITY

The Organization’s future depends on its ability to attract and retain the best people at all levels of the organization. Therefore, the Organization is committed to a policy of attracting and retaining a diverse workforce. The Organization is also committed to treating each person fairly and equitably. We prohibit sexual or any other kind of discrimination, harassment, or intimidation, whether committed by or against a supervisor, coworker, volunteer, donor, vendor, or visitor. Discrimination and harassment, whether based on a person’s race, gender, color, religion, national origin, age, disability, marital status, personal appearance, sexual
orientation, family responsibility, matriculation, veteran status, or political affiliation are inconsistent with our mission.

You must never use the Organization’s systems to transmit or receive electronic images or text of a sexual nature or containing ethnic slurs, racial epithets, or any other material of a harassing, offensive, or lewd nature. Receipt of any such electronic image must immediately be reported your supervisor or ________________.

If you believe that you are being subjected to discrimination or harassment, or if you observe or receive a complaint regarding such behavior, you should report it to your supervisor, or _________________. The Organization will promptly investigate all allegations of harassment or discrimination and will take appropriate corrective action to the fullest extent permitted by local law. Retaliation against individuals for raising claims of harassment or discrimination is prohibited. We also will ensure that anyone who assists in the investigation of a complaint is free from retaliation.

Retaliation can take many forms, including the release of confidential personal information with respect to an employee who makes a complaint or who assists in an investigation. An individual may not ask for details about any complaint unless the person has a legitimate business need to know the information, and if anyone is asked to supply such information, he or she should immediately report it to his or her supervisor or _________________.

**DRUG-FREE WORKPLACE**

The Organization is a drug-free workplace. Drug and alcohol use are highly detrimental to the safety and productivity of everyone in the workplace. The unlawful manufacture, possession, distribution, dispensation, transfer, purchase, sale, or being under the influence of alcoholic beverage or a controlled substance while on the Organization’s property, attending to business-related activities, on duty, or operating a vehicle or machine leased, rented, or owned by the Organization is strictly prohibited. Drug abuse violations by anyone in the workplace will generally result in immediate termination or suspension. The duration of the suspension, termination, or mandatory participation in a drug abuse assistance or rehabilitation program will be determined upon review by management. When appropriate, the Organization may refer the staff member to approved counseling or rehabilitation programs. You may use physician-prescribed medications, provided that the use of such drug does not adversely affect your job performance or your safety or the safety of other individuals in the workplace.

Providing alcohol to any person under the legal drinking age is prohibited. In keeping with the Organization’s intent to provide a safe and healthy work environment, smoking is prohibited throughout the workplace.

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ENVIRONMENT

The Organization seeks to exercise good stewardship in all aspects of its operations. This includes being good stewards of the environment in which we operate. The Organization will follow all applicable environmental regulations. Where laws do not exist or are inadequate, the Organization will establish and follow our own standards consistent with our commitment to a clean environment.

GIFTS/FAIR DEALING/CONFLICTS OF INTEREST

A. Gifts to You

Business-related gifts (including services, discounts, entertainment, travel, meals, promotional materials, or samples) create situations that are inherently compromising. Every situation must be examined individually and with a bias against the activity.

You and members of your family must not accept gifts of more than token value from an actual or potential client, customer, contractor, supplier, grant recipient, or business; from professional persons with whom you do or to whom you may refer business; or from anyone acting on their behalf.

Meals and other business entertainments are subject to the same standard: they must be modest, infrequent, and, as far as possible, on a reciprocal basis.

B. Outside Employment

Outside business activities such as simultaneous employment, financial interest (including business ownership), and services on public bodies are usually acceptable, provided that all of the following conditions are met:

1. In the case of an employee, your ownership and/or participation in the outside business does not interfere with your ability to perform your job;
2. No competitive or other commercial relationship exists between the outside business and the Organization; and
3. The relationship between the business activity and your work at the Organization is incidental.

C. Conflicts of Interest

If either you or a member of your family has a financial interest in a supplier, contractor, client customer, grant recipient, or competitor with whom you deal in your work, you must disclose that relationship to your supervisor and ____________________.

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You may not participate in any transaction involving the organization, including the awarding of any grant, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when you or a family member has a financial interest in the transaction.

If you have any further questions, you should consult the Organization’s Conflict of Interest policy for further information.

**D. Gifts to Others**

You must also be careful when making gifts to others. If a gift could be interpreted by others as engaging in bribery or a consideration for an official or business favor, you must not give the gift. Many states and local jurisdictions have laws restricting gifts (e.g., meals, entertainment, transportation, lodging, or other things in value) that may be provided to a government official.

Under no circumstances should you offer anything to a government official for the purpose of influencing the recipient to take or refrain from taking any official action, or to induce the recipient to conduct business with the Organization. Payment made indirectly through a consultant, contractor, or other intermediary is also prohibited.

**E. Defined Terms**

For purposes of the Code of Conduct:

- Your family members include your spouse, parents, grandparents, great grandparents, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren, great grandchildren, and spouses of brothers, sisters, children, grandparents, great grandparents, grandchildren, and great grandchildren.

- You would have a financial interest in a transaction if you or a member of your family:
  
  a. Have a significant ownership or investment interest in any entity with which the Organization has a business or other financial arrangement;

  b. Are employed, either as an employee or independent contractor, by the Organization directly or with any entity or individual with which the Organization has a business or other financial arrangement; or

  c. Has a potential ownership or investment interest in, or potential employment with, any entity or individual with which the Organization is negotiating a business or other financial arrangement.

- Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.
If you violate any of these rules, including the duty to disclose any potential conflicts of interest, you will be subject to appropriate disciplinary action, up to and including termination.

ORGANIZATION FUNDS

You must use reasonable care to protect and safeguard all the Organization’s assets entrusted to you, and use the same care you would to protect your own personal assets under similar circumstances.

You are responsible for the careful, cost-conscious, and effective use of all Organization funds, including those used for travel and entertainment. When using expense accounts of the Organization, you must fully and clearly document all expenses in accordance with the Organization’s policy.

You may use the Organization’s assets only for business-related purposes and in the best interests of the Organization. You may not use work time, Organization property, or Organization services for personal benefit. Minimal, infrequent personal use of copiers, e-mail, fax, or phones is permitted at your discretion, provided it does not interfere with your work and you reimburse the Organization for the costs.

You must not remove any equipment without prior permission. Regardless of its current usage or condition, you may not sell, loan, give away, or otherwise dispose of the Organization’s property without proper authorization consistent with applicable procedures.

POLITICAL ACTIVITY

As a nonprofit organization with tax-exempt status, the Organization is prohibited from using any assets to endorse political candidates, mobilize supporters to elect or defeat candidates, or align itself with political parties.

This does not mean that you cannot be involved in political activity as a private individual. However, you may not use the Organization’s property or other assets (including the Organization’s name) on behalf of or against any candidate for office. You should also be clear that any political statements you make, such as an endorsement of a candidate, are made in your personal capacity and not in your capacity as a representative of the Organization, and that the statements should not be made at an event sponsored or hosted by the Organization or in one of its publications.

Lobbying activity generally includes attempts to influence the passage or defeat or legislation, and is distinguished from providing general information for the purpose of educating the public. Lobbying by nonprofits is restricted, and it may trigger registration and reporting requirements. The federal government and many states extend the definition of lobbying
activity to cover efforts to influence rulemaking by executive branch agencies or other official actions of agencies, including the decision to enter into a contract or other financial arrangement. Therefore, you should not engage in any activities that could be considered lobbying without the express permission of the Board of Directors.

**PROPRIETARY MATERIAL**

Confidential information, copyrights, and trademarks are all forms of proprietary material. Whether belonging to the Organization or to another organization, all proprietary information is to be treated as a valuable asset of the owner and may not be disclosed or used without permission.

Confidential information is information that is not generally known outside of an organization and is not known by public means. Examples of confidential information include financial reports, board reports, donor information, personnel information about current or former Organization employees or members, and vendor bids. You have a duty to protect this information regardless of how you obtained it.

Unless you receive prior approval, you may not disclose confidential information to anyone outside of the Organization who does not have a legitimate work-related reason to know the information. Any such disclosure must be in accordance with privacy laws regarding personal information. Likewise, you must respect the confidentiality of information given to you in confidence by others.

If it is necessary to receive or disclose confidential information in the context of a specific business transaction, first discuss the situation with your supervisor and, as appropriate, with legal counsel.

Apart from legally recognized “fair uses” of proprietary material, you may not use copyrighted material and trademarks without permission of the owner. This includes unauthorized duplication of computer software and making multiple copies of a publication when only a single copy has been purchased.

**PUBLIC STATEMENTS**

All the Organization’s public statements must be truthful, not deceptive, and in compliance with applicable laws, regulations, and Organization policy. Any claims about the work of the Organization must be verified before they are made. All solicitations of donors must also comply with this standard.
SAFETY AND HEALTH

The Organization is committed to being a good steward of all the gifts it receives. This includes the gift of those who offer their services to the Organization. Therefore, the Organization will take every reasonable step to provide its employees and volunteers with a safe workplace. You are expected to exercise safe work habits and to not create an unsafe work environment for others. You should also report any unsafe condition to your supervisor as quickly as possible.

SUPPORT FOR OUR CODE OF CONDUCT

Consistent with our mission, the Organization is committed to supporting its people in meeting these ethical standards of conduct. In similar fashion, all Organization officers, directors, employees and volunteers must uphold these standards in their work conduct.

If you observe or know of violations of these standards, or a violation of the law, or have questions about their meaning, intent, and/or application, it is your responsibility to report such situation or pose any question promptly. The Organization will not tolerate any reprisal or retaliation or suspected violation of these standards or the law.

YOU CAN DO SO BY CONTACTING:

- Your supervisor
- Any member of the Board of Directors

ACKNOWLEDGEMENT

This is to confirm that I, ____________________________, have: received a copy of the Organization’s Code of Conduct; reviewed the Code of Conduct; and am familiar with its contents.

I agree to comply with the terms of the Code of Conduct, including the duty to report violations of the policy that I become aware of.

I also agree that I will disclose to the Organization any potential conflicts of interest as defined in this policy, and will not engage in any transaction from which I or a member of my family may benefit.

______________________________  _______________________
Signature                              Date

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Whistleblower Policy of [Organization]

[Organization] (the "Organization") requires its directors, officers, employees and volunteers to observe high standards of business and personal ethics in the conduct of their duties and responsibilities within the Organization. As representatives of the Organization, we must practice honesty and integrity in fulfilling our responsibilities and must comply with all applicable laws and regulations.

The purpose of this Whistleblower Policy is to create an ethical and open work environment, to ensure that the Organization has a governance and accountability structure that supports its mission, and to encourage and enable directors, officers, employees and volunteers of the Organization to raise serious concerns about the occurrence of illegal or unethical actions within the Organization before turning to outside parties for resolution.

Notwithstanding anything contained in this Whistleblower Policy to the contrary, this Whistleblower Policy is not an employment contract and does not modify the employment relationship between the Organization and any of its directors, officers, employees or volunteers, nor does it change the fact that all employees of the Organization are employees at will. Nothing contained in this Whistleblower Policy provides any director, officers, employee or volunteer of the Organization with any additional rights or causes of action not otherwise available under applicable law.

Reporting Responsibility

All directors, officers, employees and volunteers of the Organization have a responsibility to report any action or suspected action taken within the Organization that is illegal, unethical or violates any adopted policy of the Organization ("Violations"). Indeed, officers have an explicit fiduciary duty under D.C. law to report any actual or probable material violation of the law involving the Organization or any material breach of duty owed to the Organization that he or she believes has occurred or is likely to occur.

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Anyone reporting a Violation must act in good faith, without malice to the Organization or any individual in the Organization and have reasonable grounds for believing that the information shared in the report indicates that a Violation has occurred. A person who makes a report does not have to prove that a Violation has occurred. However, any report that the reporter has made maliciously or any report which the reporter has good reason to believe is false will be viewed as a serious disciplinary offense.

No Retaliation

No one who, in good faith, reports a Violation or cooperates in the investigation of a Violation shall suffer harassment, retaliation or adverse employment consequences. Any individual within the Organization who retaliates against another individual who has, in good faith, reported a Violation or cooperated in the investigation of a Violation is subject to discipline, including termination of employment or volunteer status.

If you believe that an individual who has made a good faith report of a Violation or who has, in good faith, cooperated in the investigation of a Violation is suffering harassment, retaliation or adverse employment consequences, please contact [__________] (the "Compliance Manager").

Reporting Process

All directors, officers, employees, and volunteers should address their concerns relating to a Violation to any person within the Organization who can properly address those concerns. In most cases, the direct supervisor of an employee or volunteer is the person best suited to address a concern. However, if you are not comfortable speaking with your supervisor or if you are not satisfied with your supervisor's response, you are encouraged to speak to the Compliance Manager, to [designated board member] or to anyone in management you feel comfortable approaching.

An officer who believes that there has been an actual or probably material violation of the law, or any material breach of a duty owed to the Organization, must report the violation to a superior officer, to [designated board member], or the Compliance Manager. However, if the person to whom he or she would normally report is implicated in a violation, the officer should report directly to the board of directors.

The Organization encourages anyone reporting a Violation to identify himself or herself when making a report in order to facilitate the investigation of the Violation. However, reports addressed to an individual within the Organization may be submitted on a confidential basis and reports may be submitted to the Compliance Manager anonymously by [Insert procedure for reporting Violations anonymously.] Reports will be kept confidential, to the extent possible, consistent with the need to conduct an adequate investigation.
Compliance Manager

A supervisor, manager and board member is required to notify the Compliance Manager of every report of a Violation. The Compliance Manager will notify the sender and acknowledge receipt of a report of Violation within five business days, but only to the extent the sender's identity is disclosed or a return address is provided.

The Compliance Manager is responsible for promptly investigating all reported Violations and for causing appropriate corrective action to be taken if warranted by the investigation.

The audit committee of the board of directors is responsible for addressing all reported concerns or complaints of Violations relating to corporate accounting practices, internal controls or auditing. Therefore, the Compliance Manager must immediately notify the audit committee of any such concern or complaint. In addition, if the Compliance Manager deems it appropriate, the Compliance Manager may advise the Executive Director or the board of directors of any other reported Violations.

The Compliance Manager has direct access to communicate with the board of directors for purposes of implementing this policy and is required to report to the board of directors at least [quarterly/annually] about whether the Compliance Manager has received any reports under this policy.

Compliance Manager: [Name, Phone Number, Mailing Address]

Adopted by the Board of Directors at its Meeting on ________________