


WCM Administrative Policy and Procedure	
	<b>Policy Title</b>
	Compliance and Accountability
	<b>Policy Number</b>
	CPO-C-400.08
	<b>Department/Office</b>
	Office of Compliance
	<b>Effective Date</b>
	January 21, 2016
	<b>Last Reviewed</b>
	November 02, 2020
	<b>Approved By</b>
	Clinical Compliance Oversight Committee (CCOC)
	<b>Approval Date</b>
	July 30, 2024

## Purpose

This Policy establishes a decision-making framework for determining recommendations for corrective actions and/or sanctions appropriate for the level of compliance or privacy policy violation. The purpose of this policy is to enforce accountability for non-compliant behaviors, take actions to mitigate re-occurrence of non-compliant behaviors and to ensure consistent, equitable and impartial application of corrective actions and/or sanctions across Weill Cornell Medicine (WCM).

## Policy

WCM's Compliance and Privacy Office (CPO) is committed to upholding a culture of compliance throughout the institution. WCM Workforce Members are responsible for ensuring compliance with WCM's compliance and privacy policies, relevant Cornell University policies, Cornell University's Code of Ethical Conduct, and governing Federal and State laws and regulations.

The CPO will guide the fair and consistent enforcement of compliant behaviors through its written policies and adherence to the established decision-making framework for determining corrective actions and/or sanctions congruent with the level of non-compliant behavior.

Non-compliance with WCM compliance and privacy policies, governing laws and regulations, and applicable Cornell University policies shall be enforced equitably and consistently throughout the institution, regardless of the offender's position, role, or seniority. However, in instances in which the offender is a non-employed individual (e.g., student, volunteer, intern, contractor, etc.), the recommended corrective actions and/or sanctions may vary from an employed individual. WCM Workforce Members may be subject to corrective actions and/or sanctions up to and including termination of employment for substantiated policy violations. Additionally, corrective actions and/or sanctions may be appropriate in instances where a policy violation is not fully substantiated or is unclear, but the Workforce Member's conduct has the potential to cause significant Institutional Risk.

Corrective actions and/or sanctions for policy violations shall be enforced appropriately, corresponding to the severity of the violation. Corrective actions and sanctions include, but are not limited to re-education or training, verbal warning, counseling, written warning, performance improvement plan, activity monitoring, or suspension; referral to or intervention by the Office of Professionalism (OOP), Human Resources (HR), CPO, or other; termination or dismissal; and/or report to law enforcement and report to professional licensing authority.

WCM compliance and privacy policy violation and sanction levels are determined by multiple factors such as the following, with consideration of aggravating or mitigating factors as set forth in this policy:

- (i) level of intent,
- (ii) actual or potential Institutional Risk caused by the violation, and
- (iii) severity of the violation.

Generally, WCM will follow a progressive corrective action process, affording its Workforce Member(s) with the opportunity to learn from and correct the conduct which caused the violation. Corrective actions and sanctions may be escalated in cases where the behavior is reckless, intentional and/or malicious. In cases of serious policy violations, the Office of General Counsel (OGC) will be involved, potentially making referrals to law enforcement if deemed necessary, and assisting with any required reports to governmental, licensing, and regulatory authorities.

## Scope

This policy applies to all WCM Workforce Members as defined below. Generally, non-compliant behaviors that violate a WCM compliance or privacy policy, Cornell University's Code of Ethical Conduct, other relevant Cornell University policies or governing Federal or State laws and regulations, will be subject to this policy. Employed and non-employed Workforce Members will be held accountable for non-compliance in accordance with this policy, however, the recommended corrective actions and/or sanctions for non-employed Workforce Members may be determined by their respective leadership.

## Definitions

**Business Associate (BA)** – a person or entity that performs certain functions or activities, or provides services that creates, receives, maintains, processes or transmits PHI on behalf of, or to WCM and is an external person or entity.

*Examples of BA functions or activities include claims processing or administration, data analysis, utilization review, quality assurance, billing, benefit management, and software hosting of PHI.*

**Institutional Risk** – A confirmed or increased potential for a financial irregularity and/or regulatory sanctions, patient safety concern, reputational harm, litigation, and/or non-compliance with regulatory requirements.

**Negligence** – a Workforce Member's failure to comply with a policy that he or she should have complied with. Negligence may be present when someone acts carelessly or with incompetence, when a reasonable person acting with prudence would have acted differently.

**Reckless Disregard** – Deliberately engaging in an act, or failing to act, with knowledge or conscious disregard that it is a policy violation. Recklessness may be present when someone knew, or when someone *should have* known, that their action or inaction would be a policy violation, and when someone knew or should have known that their action or inaction could potentially cause serious Institutional Risk.

**Violation** – Failure to comply with a WCM policy, procedure, and legal/regulatory requirements.

**Workforce Member** – includes full-time or part-time employees, faculty, physicians, students, interns and volunteers. Non-employees, including agency or contracted staff and vendors (such as BAs) are also included.

## Procedure

The CPO will investigate potential violations of compliance and privacy policies in accordance with WCM Policy CPO-C-400.4 - *Compliance Investigation and Resolution Process*. When necessary, the CPO will collaborate with WCM departments leading investigations on other institutional policy violations or inappropriate behaviors/actions with a potentially high Institutional Risk of adverse legal or regulatory actions. All investigations will be handled with assistance of the impacted department and other relevant stakeholders. Human Resources (HR), and when applicable, other stakeholders such as the Office of Professionalism (OOP), Office of General Counsel (OGC), Office of Institutional Equity (OIE), Quality and Patient Safety (QPS), Information Technology Security (ITS), and Central Business Office (CBO).

In alignment with WCM Policy HR 260 – *Progressive Counseling and Corrective Action*, the CPO has established four (4) progressive levels of potential violations, which are determined based on the following three factors: (i) intent, (ii) severity of the violation, and (iii) Institutional Risk. The corresponding recommended corrective actions and/or sanctions for each violation are outlined in the *CPO Corrective Action/Sanction Matrix*, detailed in Table II of the Appendix. Recommendations for corrective actions and/or sanctions will be determined on an individual basis, with the consideration of various aggravating and mitigating factors. Aggravating factors have the potential to increase the level of violation and corresponding corrective action(s) and/or sanction(s), while mitigating factors may potentially decrease them. Examples of factors that will be considered include but are not limited to prior performance history, Workforce Member’s transparency, cooperation with the investigation, honesty and willingness to accept responsibility and accountability, extent of actual or potential harm (or risk) caused to the institution as a result of the policy violation and other relevant considerations. Please refer to Table 1 in the Appendix – *Aggravating and Mitigating Factors*.

The CPO will make the recommendation for corrective actions and/or sanctions on a case-by-case basis using the framework outlined in the *CPO Corrective Action/Sanction Matrix* (see Table II in the Appendix) and taking into consideration relevant aggravating or mitigating factors. HR and the Workforce Member’s management will make the final decision on the corrective actions and/or sanctions to be imposed. However, depending on the nature, complexity and level of the violation, HR and management shall consult with the OGC, the OOP, OIE and other relevant stakeholders to collectively determine the appropriate corrective actions and/or sanctions.

All documentation related to compliance violations and evidence of corrective actions and/or sanctions shall be maintained by HR and the CPO in accordance with State and Federal regulations. These records will be maintained for a minimum period of six (6) years, ensuring compliance with all relevant legal obligations.

## Compliance with this Policy

All WCM Workforce Members are obligated to adhere to this policy. Failure to comply will be evaluated on a case-by-case basis and could lead to corrective action, up to and including termination, consistent with all relevant WCM and University Policies. Instances of non-compliance that involve a lapse of professionalism may lead to engagement of the Office of Professionalism for evaluation and intervention.

## Contact Information

For inquiries or assistance regarding this policy, please refer to the information below:

### **WCM Compliance and Privacy Office**

Website: [Compliance.weill.cornell.edu](http://Compliance.weill.cornell.edu)

Email: [Compliance@med.cornell.edu](mailto:Compliance@med.cornell.edu)

## References

Cornell University Policy 4.6 – Standards of Ethical Conduct  
WCM HR Policy 260 – Progressive Counseling and Corrective Action  
WCM CPO-C-400.06 – Non-Intimidation and Non-Retaliation  
WCM CPO-C-400.04 – Compliance Investigation and Resolution Process  
WCM CPO-P-410.04 - HIPAA and State Privacy Breach Reporting Requirements

## Policy Approval

This policy was reviewed and approved by the Clinical Compliance Oversight Committee (CCOC).

## Version History

Date	Author	Revisions
1/21/2016	Human Resources	Original date of issue. HR Policy 218 "Privacy and Security Sanctions Policy"
11/02/2020	Privacy and Human Resources	Review and update.
07/30/2024	Office of Compliance	Substantial changes. Renamed to "Compliance and Accountability." Expanded Scope to cover compliance and privacy.

## Appendix

**Table I – Aggravating and Mitigating Factors for Compliance and Privacy Policy Violations**

Aggravating Factors	Mitigating Factors
<ul style="list-style-type: none"> <li>• Failure to report a known violation.</li> <li>• The severity of the violation (e.g., degree of resulting harm, number of affected individuals).</li> <li>• Deliberate, malicious, willful, or reckless intent of the violation.</li> <li>• The violation increased risk of Institutional Harm and/or negative exposure.</li> <li>• The violation resulted in a regulatory reportable event.</li> <li>• Repeat offense or a history of similar prior violations.</li> <li>• Lack of cooperation with the investigation, purposeful interference with the investigation and/or witnesses, and/or providing false information/documentation.</li> <li>• The violation involved sensitive information that require special protections (e.g., HIV, mental health, substance abuse and genetic data).</li> <li>• Disregard for previously prescribed corrective action measures.</li> <li>• Other relevant considerations.</li> </ul>	<ul style="list-style-type: none"> <li>• Prompt self-report of the violation.</li> <li>• Insignificant risk of Institutional Harm.</li> <li>• Willingness to engage retraining and corrective action.</li> <li>• Forthcoming and cooperative in the investigation process.</li> <li>• Accepts responsibility and accountability.</li> <li>• Absence of prior similar policy violations or documented performance issues.</li> <li>• Subsequent admission of wrongdoing after initially providing false information, demonstrating eventual cooperation and honesty in the investigation process.</li> <li>• Confirmed misguidance from departmental, division, or practice leadership.</li> <li>• Issuance of new policy and procedure or recent updates to policy and procedure.</li> <li>• Other relevant considerations.</li> </ul>

*CPO-C-400.8: Table I (07/30/2024)*

**Table II - CPO Corrective Action/Sanction Matrix**

<b>Level of Violation</b>	<b>Intent</b>	<b>Severity of Violation</b>	<b>Institutional Risk</b>	<b>Recommended Corrective Actions/Sanctions</b>
<b>I</b>	Accidental, unintentional, or inadvertent policy violation (human error).	First time isolated incident with no pattern of violation.  No aggravating factors present.	<b>Minimal –</b> A minor violation in which there is little to no harm caused to the organization, Workforce Member, patient or client of the organization.  The error was corrected, and the Institutional Risk was mitigated with minimal to no actions.	<ul style="list-style-type: none"> <li>• Verbal warning;</li> <li>• Counseling; and/or</li> <li>• Additional training</li> </ul>
<b>II</b>	Policy negligence: Carelessness regarding an act or failure to act.  Unsatisfactory job performance or failure to demonstrate performance improvement.	Repeat of Level I offense;  Level 1 offense with aggravating factors.  Continued behavior would likely result in a pattern of non-compliance.	<b>Moderate –</b> A policy violation that results in some measurable negative impact/ consequence to the organization, one or more patient(s), Workforce Member(s), or client of the organization.  The error(s) were corrected and/or the Institutional Risk was sufficiently mitigated.	<ul style="list-style-type: none"> <li>• Written warning;</li> <li>• Counseling; and/or</li> <li>• Additional training</li> </ul>
<b>III</b>	An intentional policy violation due to reckless disregard and without malicious intent.	Repeat of Level I - II offense;  Level I – II offense with aggravating factors;  Evidence of a trend of errors and/or non-compliance.	<b>Significant –</b> A policy violation that caused, or is likely to cause, a material negative impact/consequence to the organization, one or more patient(s), Workforce Member(s), or client of the organization.  Immediate attention, intervention, and resources are required to address the error(s), mitigate Institutional Risk, and/or implement corrective actions.	<ul style="list-style-type: none"> <li>• Written warning with performance improvement plan (PIP);</li> <li>• Mandatory retraining;</li> <li>• Acknowledgement of consequences for subsequent policy violations;</li> <li>• Suspension; and/or</li> <li>• Termination</li> </ul>
<b>IV</b>	A willful policy violation with malicious intent (i.e., intent to cause harm, for personal gain, etc.)	Repeat of Level I - III offense;  Level I – III offense with aggravating factors;  Gross misconduct;  Evidence of a trend of errors and/or non-compliance.	<b>Severe –</b> A policy violation that caused, or is highly likely to cause, a substantial negative impact/ consequence to the organization, one or more patient(s), Workforce Members, or client of the organization.  Urgent attention, intervention and resources are required to address the error(s), mitigate Institutional Risk, implement corrective actions and/or make timely regulatory report requirements.	<ul style="list-style-type: none"> <li>• Termination of employment;</li> <li>• Expulsion;</li> <li>• Involvement of law enforcement, if warranted;</li> <li>• Reporting to licensing authority, if warranted.</li> </ul>

**Additional Remediation Actions:**

**Pending Investigation**

To maintain the integrity of the investigative process and/or avoid disruption to the work environment, the CPO may recommend that the Workforce Member have their system access restricted or suspended, and/or be placed on unpaid administrative leave during the investigation.

**Post-Investigation**

In addition to the recommended corrective actions and sanctions, the CPO may identify the need for remediation actions to reduce the risk of future violations. These additional remediation actions may include, but are not limited to:

1. Referral to the Office of Professionalism (OOP) for evaluation and intervention in cases involving a potential lapse of professionalism.
2. Additional auditing to determine the scope and/or ongoing monitoring necessary to verify the implementation of corrective actions.
3. Targeted retraining for Workforce Member (e.g., department, unit, role-based).
4. Other actions as determined by the CPO and senior leadership.

*CPO-C-400.8: Table II (07/30/2024)*