

**Title: Covered Employee Rights, Mandatory Disclosures, Reporting Procedures, and Follow-Up Actions**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. **PURPOSE.**

This policy describes the rights of every covered employee, provides a framework detailing the process and procedure for reporting and acting on allegations of rights violations, and establishes the requirements for nonprofit agencies’ (NPAs’) mandatory disclosures to the Central Nonprofit Agencies (CNAs) and the U.S. AbilityOne Commission (Commission).

1. **APPLICABILITY.**

This policy applies to all participating NPAs, designated CNAs, and the Commission.

1. **AUTHORITY.**
	1. 41 U.S.C. §§ 8501-8506, Javits-Wagner-O’Day (JWOD) Act
	2. 41 CFR Chapter 51, Committee for Purchase From People Who Are Blind or Severely Disabled
2. **DEFINITIONS AND ACRONYMS.**

Definitions, abbreviations, and acronyms frequently used throughout this policy system are provided in Commission Policy 51.102, Definitions of Terms. Terms unique to a specific subject matter are defined below.

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| **Term** | **Definition** |
| Complaint | A written or verbal communication from a covered employee who has experienced conduct that may violate this policy. |
| Covered Employee | An employee who is blind and/or has a significant disability who is performing direct labor on an AbilityOne contract. |
| Report | A written or verbal communication made by a third party who has observed or been informed of conduct that may violate this policy. |
| Mandatory disclosure | Statement provided to the CNA by an NPA, or a statement made to the Commission by the CNA, describing a qualifying event pursuant to the definitions and procedures set forth in this policy. |

1. **RESPONSIBILITIES**.
	1. The Commission:
2. Sets forth the rights of covered employees within the AbilityOne Program consistent with all applicable laws and regulations.
3. Clarifies and enhances the current framework for covered employees and third parties to report alleged violations of this policy to the CNA and/or the Commission.
4. Establishes mandatory disclosure requirements for an NPA to its designated CNA, as set forth in Section 6.
5. Establishes mandatory disclosure reporting requirements from the CNA to the Commission.
6. Determines follow-up actions required in response to complaints or reports or in response to a mandatory disclosure from an NPA.
7. Monitors and enforces NPA compliance with CNA and/or Commission-assigned actions in response to mandatory disclosures or direct complaints or reports.
	1. The CNA:
8. Ensures that NPAs inform covered employees of their rights as employees, this Commission policy, and how to report rights violations.
9. Ensures that NPAs have effective systems in place to receive and respond to complaints or reports.
10. Receives complaints or reports and mandatory disclosures from NPAs.
11. Informs the Commission of complaints or reports and mandatory disclosures.
12. Undertakes follow-up actions as set forth in this policy.
	1. The NPA:
13. Ensures that covered employees are informed of their rights as employees, and that all employees know how to make a complaint or report regarding a violation of this policy.
14. Establishes and maintains an effective system for receiving and investigating complaints or reports.
15. Makes mandatory disclosures as required under this policy.
16. Cooperates in any action taken by the CNA and/or Commission in follow up to any complaint, report, or mandatory disclosure.
17. **POLICY**.
	1. Legal Protections and Rights of Covered Employees
		1. All covered employees are entitled to the same legal protections, subject to the same legal standards, and enjoy equal access to employment benefits, as non-disabled employees performing the same or similar work. AbilityOne NPAs shall uphold this principle and ensure that all of their covered employees are aware of the legal protections and employment benefits available to them.
		2. The legal protections contemplated under this policy include, but are not limited to, the following Federal, state, and local protections:
	2. Labor and employment law (including participation in a bargaining unit).
	3. Anti-discrimination protections.
	4. Health and safety protections.
	5. Participation in applicable workers compensation, unemployment, and similar insurance plans.
		1. The employment benefits contemplated under this policy include, but are not limited to:
	6. Health insurance coverage.
	7. Retirement plans.
	8. Paid time off.
		1. Covered employees and third parties shall have a mechanism by which they can submit complaints or reports (as applicable) to the NPA, CNA, or Commission.
		2. An NPA may not prevent or discourage an employee from filing a complaint or report with the NPA, CNA, or Commission, or the appropriate Federal, state, or local agency.
	9. Mandatory Disclosures.
		1. An NPA shall disclose to its designated CNA when it receives credible information regarding any of the following:
	10. Information about any complaint filed with a Federal, state, or local governmental entity responsible for enforcement of the laws referenced in 6(a), except that the NPA need not disclose complaints which its covered employees have made directly to the Commission or the CNA.
	11. Information regarding significant notices and/or status changes such as findings of violations; violation of consent decrees; filing of litigation by a governmental entity addressing the complaint described in (b)(i)(a).
	12. A lawsuit filed by a covered employee naming the NPA as a defendant and the resolution to such a lawsuit (e.g., dismissal, settlement, or judgement).
	13. Any imminent threat to the solvency of the NPA that would impact the NPA’s ability to make timely payment of salary and benefits to its employees or the NPA’s ability to perform under its contract.
	14. Any complaint received by the NPA raising concerns of waste, fraud, or abuse.
18. An NPA must disclose these matters to its designated CNA within five (5) business days of when it knows of, or reasonably should have known of, a matter described above.
19. In cases of complaints or reports regarding waste, fraud, or abuse, the CNA must notify the Commission’s Inspector General of the complaint or report within five (5) business days at [*Commission IG preferred means for report submission will be inserted here*].
20. The CNA must report mandatory disclosures received from the NPA to the Commission pursuant to the procedures in this policy described below.
21. Reporting a mandatory disclosure will not automatically trigger an administrative consequence but will ordinarily result in the CNA monitoring the NPA with regard to the subject of the disclosure. A persistent or egregious failure to report, however, may trigger administrative action pursuant to Commission Policy 51.407.
22. **PROCEDURES**.
	1. Complaints or Reports to an NPA
		1. An NPA must:
	2. Have an effective system for employee(s) or third parties to safely make a complaint or report (as applicable) regarding conduct that allegedly violates this policy; and
	3. Describe and demonstrate this system to its designated CNA.
	4. Complaints or Reports to the CNA and/or Commission
		1. A covered employee or third party may submit a complaint or report, as applicable, to the NPA’s designated CNA or to the Commission regarding conduct that allegedly violates this policy.
	5. A covered employee or third party may submit a complaint or report, as applicable, directly to the designated CNA by the means set forth in Attachment #1. (Attachment to be developed.)
	6. A covered employee or third party may submit a complaint or report, as applicable, to the Commission by email at [*email address complaints@abilityone.gov will be activated*].
		1. A complaint or report to a CNA or the Commission shall include at a minimum the following:
	7. The name of the NPA;
	8. If applicable, the name of the individual about whom the complaint or report is being made;
	9. A description of the event(s) leading to the complaint or report, including when and where the event(s) occurred; and
	10. A description of any action that has been taken to date about the matter covered by the complaint or report, if any.
		1. A covered employee or third party may submit an anonymous complaint or report, as applicable, to a CNA or the Commission but should be aware that the inability to contact the complainant or reporter to request follow-up information will hinder the CNA and/or Commission’s ability to respond.
		2. The CNA and/or Commission, where relevant, will provide the complainant or reporter with the information regarding how to file a complaint with the appropriate external enforcement agency (or agencies).
	11. Initial Actions by the CNA
23. Initial Assessment. When the CNA receives a complaint, report, or mandatory disclosure, the CNA shall determine:
	1. Whether the conduct at issue pertains to a covered employee; and/or
	2. Whether the complaint, report, or mandatory disclosure is within the scope of this policy.
24. CNA Reporting to the Commission. The CNA shall transmit the complaint, report, or mandatory disclosure to the Commission within five (5) business days, along with its initial assessment, as described in Section 6(c)(i) and its initial recommended response as to follow-up actions.
25. Commission Response to the CNA’s Communication of Initial Actions. Upon notification by a CNA regarding a complaint, report, or mandatory disclosure, the Commission may take any of the following actions:
	1. Concur with the CNA’s initial assessment that the conduct does not pertain to a covered employee or does not fall within the scope of the policy;
	2. Instruct the CNA to follow up with the complainant or reporter as needed to obtain additional information;
	3. Determine whether the substance of the complaint or report should be communicated to the NPA, and if so, whether the CNA or the Commission should make that communication;
	4. Instruct the CNA to monitor the NPA with respect to the subject of the complaint;
	5. Instruct the CNA to obtain additional information or documentation relevant to the complaint, report, or mandatory disclosure and to transmit that information to the Commission along with further recommendations as needed;
	6. Forward the matter to the relevant government agency for investigation; or
	7. Refer the complainant or reporter to a government agency with the authority to consider the matter.
26. Upon receipt by the Commission of a complaint or report, the Commission will determine whether the alleged conduct pertains to a covered employee, and if so, will follow the steps described in 7(c)(iii).
27. When the Commission directs the CNA to monitor an NPA, the CNA shall provide the Commission with periodic progress reports.
28. The Commission may, at any time in the process, take additional action steps set forth in (7)(c)(iii).
29. **EXCEPTIONS**

The Executive Director may grant extensions of the time limitations in this policy for extenuating circumstances.

1. **SUPERSESSION**.

This policy supersedes Commission Compliance Policies 51.406 and 51.410, dated August 14, 2020, and November 12, 2020, respectively.

**APPROVED**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Kimberly M. Zeich**

**Executive Director**

Attachment 1

To make a complaint or report, please contact the designated CNA or the U.S. AbilityOne Commission through the following:

[*Designated CNA complaint, report, or mandatory disclosure system information will be inserted here*]

[*NIB information will be inserted here]*

[*SourceAmerica information will be inserted here*]

[*complaints@abilityone.gov email address will be activated*]

Attachment 2

If a complaint involves matters of employment policy, discrimination, affirmative action, sexual harassment, conditions of employment (including pay) or prohibited personnel practices, or if the complainant is an employee of a Federal contractor, the compliance team member will refer the individual to the following resources:

* 1. OIG [*OIG’s preferred contact method will be inserted here*]
	2. Contracting Officer
	3. State Employment Agency or other agency in the state where the complainant is employed.
	4. Equal Employment Opportunity Commission (EEOC) Information regarding how to file a complaint and important deadline information is available at <https://www.eeoc.gov/employees/howtofile.cfm>.

Complainants can also file a claim in person at any of the 53 EEOC field offices. The location of the nearest field office can be found at <https://www.eeoc.gov/field/index.cfm>.

* 1. Wage and Hour Division, Department of Labor <https://dol.gov/whd/contact_us.htm>

1-866-4USWAGE (1-866-487-9243)

TTY: 1-877-889-5627

* 1. Office of Federal Contract Compliance Programs

U.S. Department of Labor

200 Constitution Avenue, N.W.

Washington, D.C. 20210

1-800-397-6251 (toll-free)

(202) 693-1377 (TTY)

OFCCP-Public@dol.gov

A directory of regional offices can be found at <https://www.dol.gov/ofccp/contacts/regkeyp.htm>