

## VALLEY MOUNTAIN REGIONAL CENTER

		VMRC AP: 200-10-01 Date: 12-14-10
To:	All Employees, Board Members, and Volunteers	
Subject:	Revised WHISTLEBLOWER POLICY	
Approved:	_____ Richard Jacobs Executive Director	
Date of Board Approval:	<u>12-13-10</u>	

### **Purpose**

Valley Mountain Regional Center (VMRC) requires board members, other volunteers, contractors, vendors and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. Employees and representatives of the organization must practice honesty and integrity in fulfilling their responsibilities and comply with all applicable laws, regulations and VMRC policies. The purpose of the VMRC Whistle Blower policy is to provide a confidential and safe environment that encourages and enables staff to report any improper regional center and, or vendor/contractor activity.

### **Definition of Improper Activities**

An "improper regional center activity" is defined as an activity by a regional center, or an employee, officer, or board member of a regional center, in the conduct of regional center business, that is a violation of a state or federal law or regulation; violation of the VMRC conflict of interest policy; violation of contract provisions; fraud or fiscal malfeasance; misuse of VMRC or government property; or constitutes gross misconduct, incompetency, or inefficiency.

An "improper vendor/contractor activity" means an activity by a vendor/contractor, or an employee, officer, or board member of a vendor/contractor, in the provision of State funded services, that is a violation of a state or federal law or regulation; violation of contract provisions; fraud or fiscal malfeasance; misuse of VMRC or government property; or constitutes gross misconduct, incompetency, or inefficiency.

## **Whistle Blower Exclusions**

The whistle blower reporting process is not for reporting staff grievances, personnel related issues or general complaints about other staff, supervisors, or management; separate processes exist for reporting grievances, consumer or vendor complaints, concerns and issues.

## **Reporting Responsibility**

Each board member, volunteer, and employee of VMRC has an obligation to report in accordance with this Whistleblower Policy any alleged improper regional center and, or vendor contractor issues (hereinafter collectively referred to as concerns).

## **Authority of Executive Director and the President of the Board of Directors**

All reported concerns will be forwarded to the Executive Director and/ or the President of the Board of Directors, in accordance with the procedures set forth herein. The Executive Director and/ or the President of the Board of Directors shall be responsible for investigating the concern, and making appropriate recommendations to the Board of Directors..

## **No Retaliation**

This Whistleblower Policy provides a process to encourage and enable board members, volunteers, and employees to confidentially raise serious concerns within the organization for investigation and appropriate action. With this goal in mind, no board member, volunteer, or employee who, in good faith, reports a concern shall be subject to retaliation or, in the case of an employee, adverse employment consequences. Moreover, a board member, manager, volunteer or employee who retaliates against someone who has reported a concern in good faith is subject to disciplinary action.

## **Definition of Retaliation**

A VMRC employee, supervisor or manager, authorized to take, direct others to take, recommend or approve any personnel action may not take, fail to take, or threaten to take any personnel action against an employee because of the reporting of a concern protected by the VMRC's whistle blowing policy.

## **Reporting Concerns**

### **Employees**

Employees should first discuss their concern with their immediate supervisor. If, after speaking with his or her supervisor, the individual continues to have reasonable grounds to believe the concern is valid, the individual should report the concern to the Director of Human Resources.

If the individual is uncomfortable speaking with his or her supervisor, or the supervisor is a subject of the concern, the individual should report his or her concern directly to the Director of

Human Resources. If the Director of Human Resources or any member of VMRC senior management, including the Executive Director, is a subject of the concern, the individual may report his or her concern directly to the President of the Board of Directors.

If the concern was reported orally to the Director of Human Resources, the reporting individual, with assistance from the Director of Human Resources, shall reduce the concern to writing.

The Director of Human Resources shall promptly report the concern to the Executive Director. If the Director of Human Resources, for any reason, does not promptly forward the concern, the reporting individual should directly report the concern to the Executive Director or the President of the Board of Directors.

The Executive Director and the President of the Board of Directors have specific and exclusive responsibility to ensure that a thorough and objective investigation is conducted, in accordance with this policy. In the event the Board President determines that the Executive Director, for whatever reason, cannot direct the investigation, the President of the Board of Directors shall, following consultation with the Executive Committee, consult with the regional center's attorney and arrange for an independent investigation of the reported concern. If the Board President, for whatever reason, is unable to direct the investigation, the Board of Directors shall designate an appropriate officer to continue with the proceeding

### **Board members and Other Volunteers**

Board members and other volunteers should submit concerns in writing directly to the Executive Director or the President of the Board of Directors.

### **Handling of Reported Violations**

The Executive Director and the President of the Board of Directors shall address all reported concerns and acknowledge receipt of the concern in writing within ten business days, if possible. It will not be possible to acknowledge receipt of anonymously submitted concerns.

All reports will be promptly investigated and appropriate corrective action will be recommended to the Board of Directors, if warranted by the investigation. In addition, action taken must include a conclusion and/or follow-up with the complainant for complete closure of the concern. Follow up will not be possible for anonymously submitted concerns.

The Executive Director and the President of the Board of Directors have the authority to retain outside legal counsel, accountants, private investigators, or any other resource deemed necessary to conduct a full and complete investigation of the concern.

### **Acting in Good Faith**

Anyone reporting a concern must act in good faith. The individual reporting the concern must have reasonable grounds for believing the allegation(s) contained in the concern indicates an improper activity is occurring or has occurred. Regardless of whether the finding of the

investigation determines the concern was substantiated, inconclusive, or unfounded, the individual reporting the concern shall be protected from retaliation.

There are serious potential consequences for an individual knowingly reporting a false concern. Consequently, if the findings of the investigation determines the concern proves to be unfounded, and the reporting of the concern was proven to have been made maliciously, recklessly, or with the foreknowledge that the allegations were false; the matter shall be viewed as a serious disciplinary offense and may result in disciplinary action. Such conduct may also expose the individual knowingly reporting a false concern to other actions, including a civil lawsuit.

### **Confidentiality**

Reports of concerns, and investigation pertaining thereto, shall be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

Disclosure of reports of concerns to individuals not involved in the confidential investigation may be viewed as a serious disciplinary offense and may result in disciplinary action. Such conduct may also expose the individual to other actions, including a civil lawsuit.

### **Existing Law**

Both federal and California law protect regional center employees and applicants from employer retaliation for reporting an alleged violation of statute or regulation. Some examples:

- National Labor Relations Act (roughly half of the regional centers are unionized)
- Fair Labor Standards Act of 1938
- Employee Retirement Income Security Act of 1974
- Occupational Safety and Health Act of 1970
- Cal/OSHA
- Consumer Credit Protection Act of 1968
- Protection of Jurors Employment Act
- Title VII, Civil Rights Act of 1964
- Fair Employment and Housing Act (Gov Code 12940(3))
- Rights of employees to disclose information to government and law enforcement (Labor Code 1102.5)

In addition to specific protections, the California Legislature has declared that it is the public policy of the State of California to encourage employees to notify an appropriate government or law enforcement agency when they have reason to believe that their employer is violating laws enacted for the protection of corporate shareholders, investors, employees, and the general public.

