

# **ANDRE AGASSI FOUNDATION FOR EDUCATION**

## **WHISTLEBLOWER PROTECTION POLICY**

### **I. Purpose.**

In keeping with the policy of maintaining the highest ethics and standards of conduct, the Andre Agassi Foundation for Education, a Nevada foreign nonprofit corporation (the “Foundation”) will investigate any suspected violations of the Foundation’s code of ethics or other standards of conduct as well as any fraudulent, dishonest use or misuse of Foundation’s resources or property by staff, Board of Trustees members, consultants, or volunteers. Staff, board members, consultants, and volunteers are encouraged to report suspected improper, fraudulent or dishonest conduct (i.e., to act as “whistleblower”), pursuant to the procedures set forth below.

### **II. Reporting.**

A person’s concerns about possible violations of the Foundation’s code of ethics or other standards of conduct or any fraudulent or dishonest use or misuse of resources or property should be reported to his or her supervisor or, if suspected by a volunteer or consultant, to the staff member supporting the volunteer’s or consultant’s work. If, for any reason, a person finds it difficult to report his or her concerns to a supervisor or staff member supporting the volunteer’s or consultant’s work, the person may report the concerns directly to the Board of Trustees’ Chairman, Chief Executive Officer and/or Chief Compliance Officer of the Foundation. Alternately, to facilitate reporting of suspected violations where the reporter wishes to remain anonymous, such person may report his/her own side or concerns to either (i) the Foundation’s external legal counsel, who shall immediately notify the Chief Compliance Officer of the Foundation of all such reports or (ii) may submit an anonymous written statement to one of the individuals listed above.

### **III. Definitions.**

#### *Baseless Allegations:*

Allegations made with reckless disregard for their truth or falsity, or allegations that were made maliciously or not in good faith. Individuals making such allegations may be subject to disciplinary action by the Foundation *and/or* legal claims by individuals accused of such conduct.

#### *Fraudulent or Dishonest Conduct:*

A deliberate act or failure to act with the intention of obtaining an unauthorized benefit including, without limit, any violations of the Foundation’s code of ethics or other standards of conduct.

A non-exhaustive list of examples of such conduct includes the following:

- Forgery or alteration of documents
- Unauthorized alteration or manipulation of computer files
- Pursuit of a benefit or advantage in violation of the Foundation’s conflict of interest policy
- Misappropriation or misuse of Foundation resources, such as funds, supplies, or other

## Assets

- Authorizing or receiving compensation for goods not received or services not performed, or paying for services or goods that are not rendered or delivered
- Authorizing or receiving compensation for hours not worked
- Supplying false or misleading information on the Foundation's financial or other public documents, including its Form 990 (Annual Information Return)
- Providing false information to or withholding material information from the Foundation's Board of Trustees or auditors
- Destroying, altering, mutilating, concealing, covering up, falsifying, or making a false entry in any records that may be connected to an official proceeding, in violation of federal or state law or regulations or otherwise obstructing, influencing, or impeding any official proceeding, in violation of federal or state law or regulations
- Embezzling, self-dealing, or otherwise obtaining an unlawful private benefit (i.e., Foundation assets being used by anyone in the organization improperly for personal gain)

### *Whistleblower:*

An employee, consultant, or volunteer who informs a supervisor, Chairman, Chief Executive Officer or the Chief Compliance Officer of the Foundation about an activity relating to the Foundation which that person believes to be fraudulent or dishonest.

## **IV. Responsibilities and Investigations.**

### *Supervisors:*

Supervisors are required to report suspected fraudulent or dishonest conduct to the Chairman, Chief Executive Officer or Chief Compliance Officer of the Foundation. Reasonable care should be taken in dealing with suspected misconduct to avoid the following:

- Baseless allegations
- Premature notice to persons suspected of misconduct and/or disclosure of suspected misconduct to others not involved with the investigation
- Violations of a person's rights under law

Due to the important yet sensitive nature of the suspected violations, effective professional follow-up is critical. Supervisors should not perform any investigative or other follow-up steps on their own. Accordingly, a supervisor who becomes aware of suspected misconduct should report it to the Chairman, Chief Executive Officer and/or Chief Compliance Officer, but should not without prior permission take steps on his or her own to do any of the following: (i) contact the person suspected to further investigate the matter or demand restitution; (ii) discuss the case with attorneys, the media, or anyone other than the Chairman, Chief Executive Officer and/or Chief Compliance Officer; or (iii) report the case to an authorized law enforcement officer without first discussing the case with the Chairman, Chief Executive Officer and/or Chief Compliance Officer,

*Investigation:*

All relevant matters, including suspected but unproved matters, will be reviewed and analyzed by the Foundation's Chief Compliance Officer or another appropriate person designated by the Board of Trustees. This may include an investigation by legal counsel and/or accountants in some instances. All investigations will be kept confidential. Appropriate corrective action will be taken, if necessary, and findings will be communicated to the reporting person and his or her supervisor,

*Whistleblower Protection:*

- The Foundation will use its best efforts to protect whistleblowers against retaliation. Whistleblowing complaints will be handled with sensitivity, discretion, and confidentiality to the extent allowed by the circumstances and the law. Generally, this means that whistleblower complaints will be shared only with those who have a need to know so that the Foundation can conduct an effective investigation, determine what action to take based on the results of any such investigation, and in appropriate cases, with law enforcement personnel. (Should disciplinary or legal action be taken against a person or persons as a result of a whistleblower complaint, such persons may also have the right to know the identity of the whistleblower.)
- Employees, consultants, and volunteers of the Foundation may not retaliate against a whistleblower for informing management about an activity which that person believes in good faith to be fraudulent or dishonest with the intent or effect of adversely affecting the terms or conditions of the whistleblower's employment, including but not limited to, threats of physical harm, loss of job, punitive work assignments, or impact on salary or fees. Whistleblowers who believe that they have been retaliated against may file a written complaint with the Chairman, Chief Executive Officer and/or Chief Compliance Officer of the Foundation. Any complaint of retaliation will be promptly investigated and appropriate corrective measures taken if allegations of retaliation are substantiated. This protection from retaliation is not intended to prohibit supervisors from taking action, including disciplinary action, in the usual scope of their duties and based on valid performance-related factors.
- Whistleblowers must be cautious to avoid baseless allegations (as described earlier in the definitions section of this policy). Allegations that are baseless and not made in good faith may result in disciplinary action.