

Topic: Staff performance, incentives and discipline	Department: HR, agency supervisors and managers
Original effective date: 3/11/02	Last revision date: 5/17/24
Owner: VP for Quality and Compliance	Frequency of reviews: Annual
Internal/Regulatory Reference(s) (all that apply): 18 NYCRR 521.3(c)	
Related documents/Links: Please see references within the document	

Policy: It is the policy of The Arc of Monroe that business, administrative and support functions promote personal and organizational outcomes.

Additional Information: For the purposes of this policy, “staff” includes employees, volunteers, interns, students and contractors.

Procedure	
Task:	Responsible party:
General Guidelines:	
1. In order to be compliant and help the agency run smoothly, staff are required to follow applicable laws, rules, regulations and agency policies.	All staff
2. Licensed clinical staff are required to follow the professional standards of their discipline and any professional associations they belong to.	Licensed clinical staff
3. The Arc believes in recognizing people when they do well. We want people to succeed and do their jobs to the best of their abilities. Some things we might do: *Personal recognition by a coworker or supervisor, such as Employee of the Month nomination *Special awards *Personalized awards *Notes of appreciation *Public recognition in the Arc’s newsletter, agency-wide communications or other publications *Offer training opportunities such as conferences or seminars *Offer opportunities to participate in projects, committees or taskforces	Staff, managers, HR
4. Staff may receive discipline for not following the agency’s Code of Conduct, compliance plan, employee handbook or any applicable rules, laws and regulations – including the HIPAA privacy and security rules. Specific examples: *Not following the agency’s compliance program, including not preventing fraud, waste and abuse of Medicaid funds *Failing to correct known or foreseeable compliance violations *Letting, endorsing or encouraging someone break the law or violate the Code of Conduct *Helping someone do the same *A staff person not reporting if they think someone else is doing something illegal or violating agency policy	Management, HR

<p>*Not cooperating with an investigation (as a condition of employment, staff must participate in agency investigations including but not limited to those through the Incident Department, Corporate Compliance or Human Resources)</p> <p>*Treating someone else differently (such as intimidating or retaliating against them) because they reported something they believed to be true, or for participating in an investigation (please see the policy, “Whistleblower, Non-Intimidation and Non-Retaliation” for additional information)</p> <p>*Documenting things that aren’t true or accurate</p> <p>*Reporting things that are believed to be untrue or false (like accusing someone of something they did not do)</p> <p>*Committing fraud (please see the policy, “Accurate and Timely Documentation of Services” for additional information on what fraud is)</p> <p>*Doing things that are not acceptable in this field</p> <p>*Misconduct (please see the policy, “Code of Conduct” for additional information)</p>	
<p>5. Please cross reference the agency’s “Employee Handbook” for details on the levels of progressive discipline. This can be accessed via ArcSmart for agency employees. Non-employees such as volunteers, interns, students or contractors can request information on the agency’s progressive discipline at any time by asking their primary agency contact.</p>	<p>Staff</p>
<p>6. The Arc has a zero tolerance policy for false documentation, whether the documentation relates to/supports our ability to get paid as an agency or not. Staff cannot deliberately document things that aren’t true, whether it rises to the level of fraud or not. If it’s proven that this happened, staff’s employment will be terminated.</p>	<p>Staff</p>
<p>7. Other reasons for discipline include:</p> <ul style="list-style-type: none"> • Abusing or neglecting people we support • Not following safety rules • Not following agency policy • Insubordination: This includes not following your supervisor’s direction or sharing your opinion in unprofessional or disrespectful ways. For example: <ul style="list-style-type: none"> ○ Refusing to do something your supervisor told you to do. This also includes saying you’ll do something and then deliberately not doing it. ○ Using foul or disrespectful language or actions when addressing your supervisor ○ Arguing with or raising your voice to your supervisor. It’s OK to disagree, but it should be done professionally. • Not being able to learn your job • Being absent or late frequently • Harassing other people. This includes repeated or ongoing instances of the following: <ul style="list-style-type: none"> ○ Physical. Touching people who don’t want to be touched. ○ Touching people in ways they don’t like. 	<p>HR</p>

<ul style="list-style-type: none"> ○ Verbal. Saying things about other people. This can include comments about their race or ethnicity, their gender or gender expression, their sexual orientation, or how they look or speak. ○ Sexual. Making sexual comments to someone. Making sexual comments where others can hear. This includes jokes, asking for or offering sexual contact with someone, including in exchange for a favor such as a better shift, promotion, etc. ○ Someone can feel harassed even if the comments weren't made directly to them. If they are close enough to hear the comments and they are offended, it can still be harassment. <ul style="list-style-type: none"> ● Having weapons on Arc property ● Using alcohol or recreational cannabis products or materials on Arc property or while conducting work for The Arc ● Using, selling or being in possession of illegal drugs on Arc property ● Being under the influence of alcohol, cannabis, or illegal drugs while at work ● Intimidating or retaliating against a staff person for any of the following: <ul style="list-style-type: none"> *Reporting something they believe is really happening to any appropriate parties or officials *Investigating issues *Conducting self-evaluations, audits or remedial actions <p>Please see the policy, "Whistleblower, Non-Intimidation and Non-Retaliation" for additional information.</p>	
<p>8. When deciding on the level or degree of discipline, we will look at:</p> <ul style="list-style-type: none"> ● Whether the person deliberately did something against agency policy, the Code of Conduct or the employee handbook ● Whether the person participated in the investigation ● Whether the person lied during the investigation ● Whether the issue under question is a repeated issue ● Whether the person tried to cover up what they did ● Whether the situation involved intimidation or retaliation ● Whether the person chose to seek approval before doing it (when it would have been logical to do so) ● What the person got from doing what they did (including simply not having to work so hard) ● Whether the person reported what they did on their own. This is seen as a good thing and will be taken into consideration when we look at discipline. ● How much damage was caused ● Whether someone we support could have been or was hurt by what they did 	HR
<p>9. HR and the VP for Quality and Compliance will make sure that discipline is applied consistently for the same concerns, showing no favoritism by position, tenure, or who the person is. Information on disciplinary actions is included in compliance case files, as appropriate.</p>	HR, VP for Quality and Compliance

10. Discipline is typically progressive and may include verbal counseling, documented counseling, written warnings, or termination of employment, based on the factors listed above.	HR
11. However, for more serious infractions even if the first time, HR reserves the right to proceed directly to more significant discipline up to and including termination.	HR
12. Staff should refer to the employee handbook or consult with their HR Business Partner for additional information.	Staff
HR:	
1. HR has primary responsibility for the management and oversight of disciplinary actions.	HR
2. HR will consult with the VP for Quality and Compliance as appropriate, to the degree that the situation ties to compliance.	HR
3. HR will inform the VP for Quality and Compliance of any retaliation tied to a compliance-related situation or report.	HR
VP for Quality and Compliance:	
1. The VP for Quality and Compliance acts as the agency's Compliance Officer, as required in NYS law.	VP for Quality and Compliance
2. Has primary responsibility for administering the agency's compliance program, and related policies and procedures.	VP for Quality and Compliance
3. Will support the HR function regarding consistency of discipline.	VP for Quality and Compliance
4. Will monitor for and track any confirmed instances of retaliation tied to a compliance-related situation or report.	VP for Quality and Compliance

Document revision record:

Revision Date	Release Date	Reason for change	Approver
10/27/05	10/27/05	Reasons for changes were not documented	P Dancer
10/20/06	10/20/06	Reasons for changes were not documented	P Dancer
5/23/08	5/23/08	Reasons for changes were not documented	P Dancer
6/24/09	6/24/09	Reasons for changes were not documented	P Dancer
10/20/11	10/20/11	Reasons for changes were not documented	P Dancer
2/8/12	2/8/12	Reasons for changes were not documented	P Dancer
5/25/12	5/25/12	Reasons for changes were not documented	P Dancer
10/24/14	10/24/14	Reasons for changes were not documented	P Dancer
4/27/17	4/27/17	Reasons for changes were not documented	P Dancer
11/9/18	11/9/18	Reasons for changes were not documented	P Dancer
10/22/19	10/22/19	Transitioned to the new procedural format	P Dancer

5/28/21	6/8/21	Clarified language; specifically stated that intimidation and retaliation are not permitted; added sections for HR and VPQC	ICC
7/21/22	8/8/22	Defined "staff" for the purposes of this policy	ICC
3/7/23	3/15/23	Added specific language related to prevention of fraud, waste and abuse of Medicaid; added a cross reference to the agency's disciplinary policy for information on progressive discipline	ICC
4/12/23	4/28/23	Added a specific reference to any applicable rules, regulations and laws; and to the HIPAA privacy rule in the bullet on reasons for disciplinary action	ICC
6/29/23	6/29/23	Added reference to HIPAA security rule in bullet 4 of general guidelines; under specific examples in bullet 4 of general guidelines, added reference to failing to correct foreseeable compliance violations and to participation in investigations; removed Performance Management Plans as an example of disciplinary actions	ICC
5/17/24	6/26/24	Corrected typos; added endorsing and encouraging others to violate requirements; added clarifying statements to several examples and actions; added references to other relevant policies; explicitly stated that discipline is typically progressive, but more severe infractions may warrant a more severe response immediately	ICC