

Topic: Whistleblowers, Non-intimidation and Non-retaliation	Department: Entire agency
Original effective date: 7/1/14	Last revision date: 10/27/26
Owner: VP for Quality and Compliance (VPQC)	Frequency of reviews: Annual
Internal/Regulatory Reference(s) (all that apply): 18 NYCRR §521-1.4(a)(2)(vii); NYS Social Services Law § 363-d; NYS Labor Law § 740;	
Related documents/Links: Please see references within the document	

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

Additional Information: The Arc is committed to and has an obligation to comply with all applicable federal and state standards.

For purposes of The Arc's compliance program, this policy applies to all affected parties whose responsibilities or activities are affected by The Arc's compliance risk areas, including employees, the CEO and other senior management, managers, contractors, agents, subcontractors, independent contractors, students, interns, volunteers, applicable vendors, members of the Board of Directors, and Board committee members. As specifically indicated, this policy also applies to people we support who report concerns.

We encourage a culture in which all individuals feel free to report behaviors or actions which they believe should be reported in good faith.

The Arc will take all necessary steps, to the extent possible within the law, to preserve the confidentiality of the reporter's identity. The confidentiality of persons reporting compliance issues shall be maintained unless the matter is subject to a disciplinary proceeding, referred to, or under investigation by the NYS Medicaid Fraud Control Unit (MFCU), the NYS Office of the Medicaid Inspector General (OMIG) or law enforcement, or disclosure is required during a legal proceeding. In these circumstances, such persons shall be protected under this policy (meaning they cannot be intimidated or retaliated against as outlined in this policy).

Federal and state laws and regulations prohibit certain forms of intimidation and retaliation. Consistent with those requirements and The Arc's own policy, The Arc prohibits intimidation or retaliation against any affected party or person we support for good-faith activity protected under this policy.

- Reporting a concern, including a compliance concern, that they reasonably believe is occurring, to appropriate personnel, parties, or officials
- Investigating, participating in or cooperating with an agency investigation
- Conducting audits, self-evaluations, or remedial actions – regardless of the findings
- Reporting instances of intimidation or retaliation
- Reporting potential fraud, waste or abuse to the appropriate state or federal entities.

In addition, The Arc may not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual for the exercise of HIPAA Privacy rights or the filing of a HIPAA-related complaint.

For purposes of NYS Labor Law §740, “retaliatory action” is defined as an adverse action taken by an employer or its agent to discharge, threaten, penalize, or in any other manner discriminate against any employee or former employee exercising their rights including:

- adverse employment actions or threats to take such adverse employment actions against an employee in the terms or conditions of employment including, but not limited to, discharge, suspension, or demotion;
- actions or threats to take such actions that would adversely impact a former employee's current or future employment; or
- threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report an employee's suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee's family or household member, as defined in section 459-a of the social services law, to a federal, state, or local agency.

For purposes of this policy, “good faith” means that the person honestly and reasonably believes that the information reported may be true based on the information available to them at the time.

Non-intimidation and non-retaliation are part of annual compliance training.

Procedure	
Task:	Responsible party:
General Guidelines:	
1. Each affected party has a responsibility to report any activity they know, suspect, or believe to be illegal, fraudulent, or in violation of any: <ul style="list-style-type: none"> a. Federal, state or local statute or ordinance b. Executive order c. Rule or regulation promulgated pursuant to the above d. Judicial or administrative decision, ruling or order; or e. Activity, policy or practice of The Arc. 	Affected parties
2. All affected parties have an obligation to refuse to participate in any wrongful course of action. This includes illegal or noncompliant activity or activity contrary to agency policy or the Code of Conduct. Affected parties who believe they are being pressured or coerced to participate in wrongful activity must report the concern as soon as possible.	Affected parties
3. Affected parties may report concerns to their supervisor or primary agency contact, any member of management or leadership, the VPQC, or through any other reporting mechanism identified in agency policy, including the Compliance Hotline.	Affected parties
4. People we support may report concerns to any staff member, manager, director, senior director, vice president, executive officer, or the VPQC, or through the Compliance Hotline.	People we support
5. The Arc has an open door policy. Reports may be made anonymously and/or confidentially by any affected party or person we support without fear of retaliation or retribution, regardless of whom they are reported to. Please cross reference the policy, “Non-compliance detection and response, and confidential communications” for more information. The best way to make an anonymous or confidential report is to use the	Affected parties; People we support

agency's Compliance Hotline. This can be accessed by calling 585-448-3588 or using the portal available at https://ethcomp.com/arcofmonroe . Reporters are never required to disclose their identity when making a report.	
6. The Arc encourages affected parties to report concerns internally so that the agency has an opportunity to investigate and address them promptly.	Affected parties
7. Nothing in this policy prohibits or is intended to discourage any person from reporting concerns directly to an appropriate governmental or regulatory agency when permitted by law. Affected parties and people we support may report concerns to governmental or regulatory agencies including, but not limited to: <ul style="list-style-type: none"> a. NYS Office of the Medicaid Inspector General (OMIG) b. NYS Attorney General (AG) c. NYS Medicaid Fraud Control Unit (MFCU) d. NYS Department of Health (DOH) e. NYS Office for People with Developmental Disabilities (OPWDD) f. The U.S. Department of Labor/NYS Department of Labor (DOL) g. U.S. Department of Health and Human Services Office of Inspector General (HHS-OIG) h. The U.S. Attorney's Office. 	Affected parties; People we support
8. NYS Labor Law §740 establishes certain requirements regarding prior notice to an employer in connection with particular whistleblower protections, subject to the following exceptions: <ul style="list-style-type: none"> a. There is an imminent and serious danger to public health or safety; b. The employee reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice; c. Such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; d. The employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or e. The employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice. 	Employees
9. Managers and other leaders who receive a reported concern, including an allegation of intimidation or retaliation, are responsible for promptly responding or referring the matter to Human Resources, the VPQC, or other appropriate leadership consistent with agency policy.	Managers; Leaders
10. No affected party or person we support may be intimidated or retaliated against for making a good-faith report or otherwise engaging in activity protected under this policy. This includes intimidation or retaliation by coworkers, supervisors, managers, leadership, or other affected parties.	Affected parties; People we support
11. Substantiated intimidation or retaliation will result in appropriate corrective or disciplinary action, up to and including termination of employment or separation from The Arc, as applicable.	HR, Management
12. An individual who reports misconduct in which they participated may be subject to appropriate consequences for their participation in the misconduct, but not for making the good-faith report.	HR, Management

13. Knowingly making a false report for the purpose of harming, intimidating, or retaliating against another person is prohibited. An unsubstantiated report made in good faith does not constitute a knowingly false report.	Affected parties; People we support
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Document revision record:

Revision Date	Release Date	Reason for change	Approver
2/11/20	2/11/20	Transferred to new procedural format and updated titles	VPQC
9/29/21	10/8/21	Specifically stated that complaints can be made to any government entity; added "in good faith" to additional information	ICC
2/3/22	3/4/22	Added recent revisions to NYS Labor Law 740	ICC
9/27/22	10/13/22	Stated clearly expectation to report internally and consequences for not doing so; made clearer reference to reporting to governmental agencies in general guidelines #3	ICC
3/15/23	3/15/23	Added language specific to exceptions where confidentiality may not be maintained and clarified that reporters could not be intimidated or retaliated against as outlined in this policy; added specific language related to non-retaliation/non-intimidation instances per 18 NYCRR 521; specified whom this policy applies to	ICC
3/22/23	3/23/23	Added specific language in regards to the people we support and how this policy applies to them; added "non-intimidation and non-retaliation" to the policy title; added link to non-compliance detection and response policy	ICC
4/12/23	4/28/23	Added a statement regarding non-retaliation related to HIPAA	ICC
10/30/23	10/30/23	Spelled out acronyms; Added clause to report if feeling pressured or coerced; added "separation from the agency" as possible disciplinary action for non-employees; corrected typos	ICC
9/26/24	10/23/24	Added references to Board committees where appropriate and some clarifying language	ICC
10/23/25	10/23/25	Added language, "know, suspect or believe" in regards to concerns; added clarifying language on making an anonymous/confidential report and included the hotline contact info; reiterated the obligation to report non-compliance in the procedure	ICC
2/18/26	2/18/26	Added a formal reference regarding our commitment to following federal and state standards	ICC
10/27/26	10/27/26	Consolidated redundant information; reformatted information, added clarifying language; added specific reference to annual training	ICC