

Procedure Number: CC-020
Reporting Compliance Concerns & Whistleblower Protections

<i>The Arc of Chemung-Schuyler</i>		Created On: April 2002
		Reviewed/Revised: 8/19; 6/2020; 1/21; 2/21; 9/21, 12/21, 6/23
Procedure Number: CC-020	Position Responsible: Compliance Officer	
Procedure Title: Corporate Compliance – Reporting Compliance Concerns & Whistleblower Protections	Approved by Chief Executive Officer/Date:	
Regulatory Reference: OMIG, NPCL, NY Labor Law, NY Social Services Law	Audience: <input type="checkbox"/> All <input checked="" type="checkbox"/> Staff <input type="checkbox"/> Volunteers <input type="checkbox"/> Board Members <input type="checkbox"/> Other (Fill In) _____	

Purpose: To aid employees in understanding and using the open lines of communication that have been established for Corporate Compliance. To aid employees in understanding that it is his/her responsibility to report any potential wrongdoing to the Corporate Compliance Officer.

Policy: Strict adherence to Arc of Chemung-Schuyler’s Compliance Plan and Standards of Conduct is vital. Arc of Chemung-Schuyler requires all affected individuals to promptly report any known or suspected violation(s) of the Compliance Plan, Standards of Conduct, policies, and procedures or any of the federal, state, or local statute, rules, or regulations, executive order, or any judicial or any administrative decision by which Arc of Chemung-Schuyler is governed. This policy governs the procedure used by affected individuals to report compliance concerns and seeks to ensure that Arc of Chemung-Schuyler provides an environment that encourages individuals to report any suspected violations without fear of retaliation, intimidation, or retribution. Former employees are also covered under the protection from retaliation/intimidation section of this document.

Scope: This policy and procedure are applicable and made available/accessible to all affected individuals unless a specific exemption is noted within this policy.

References: The Arc of Chemung-Schuyler is governed by several federal, state, and local statutes, rules, and regulations; however, the focus of this policy is on those pertaining to participation in and compliance with the Medical Assistance Program (Medicaid and Medicare). Applicable statutes, rules and regulations used to design this policy include, New York State Title 18 regulations, specifically those under Part 521 that establishes requirements to adopt and implement programs designed to detect and prevent fraud, waste, and abuse in the Medical Assistance program. Social Services Law Part 363-d which establishes expectations for provider compliance programs was also used to design this policy and procedure. The Arc New York Chapter Manual also requires that all operating Chapters shall have in effect a plan for corporate compliance that contains all the elements of a corporate compliance plan required by the OMIG (Section III-15.0: Corporate Compliance, Arc New York Chapter Manual) as well as a Compliance Committee that is a committee of the Chapter Board. (Section II-5.1: Model Chapter By-Laws, Article XI, Sections 1 &2)

Definitions:

Affected Individuals: all persons who are affected by the required provider's risk areas including the required provider's employees, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers. (N.Y. Comp. Codes R. & Regs. tit. 18, § 521-1.2)

Responsibilities: This policy and procedure are overseen by the Arc of Chemung-Schuyler's designated Compliance Officer (CO) and Compliance Committee (CC). The CO and CC are responsible for monitoring implementation of this policy and procedure, reviewing and revising as necessary; but no less frequent than annually.

Procedure:

A. Duty to Report

Covered parties are encouraged to report any known or suspected violations of the aforementioned areas by which Arc of Chemung-Schuyler is governed to their supervisory, manager, the CO or through the Arc of Chemung-Schuyler's Compliance Hotline. This duty has limited exemptions to report, as detailed in section B of this policy.

<u>Method</u>	<u>Contact information</u>
In person	711 Sullivan St., Elmira, NY 14901
Interoffice mail	Attn: Keegan Ovens, Compliance Officer
Standard mail	The Arc of Chemung-Schuyler Attn: Keegan Ovens, Compliance Officer

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	711 Sullivan St., Elmira, NY 14901
Phone	(607) 734-6151 ext. 131 (607) 535-6934 ext. 122
Email	OvensKM@arcofcs.org
Anonymous CC Hotline*	ext. 555 from an internal, agency iPitomy phone
	(607) 333-9252 from all other phones

*Please note: When calling the CC Hotline, neither your name nor the extension from which you are calling from will be known to the CO. Therefore, if additional information or follow up is needed, the CO will not be able to do so unless you leave contact information.

1. Reporting through the Arc of Chemung-Schuyler's Compliance Hotline

Covered parties may report their compliance concerns confidentially to the Arc of Chemung-Schuyler's Compliance Hotline. The Compliance Hotline number is (607) 333-9252. Callers to the Compliance Hotline may make reports anonymously. No caller is required to disclose their identity, and no attempt should be made to trace the source of the call or identity of the caller when the caller requests anonymity.

If a caller has revealed their identity, confidentiality is maintained to the extent practicable and allowed by law. However, callers should be aware that it may not be possible to preserve anonymity if they identify themselves, provide other information that identifies them, the investigation reveals their identity, or they inform people that they have called the Compliance Hotline. Callers should also be aware that Arc of Chemung-Schuyler is legally required to report certain crimes or potential crimes and infractions to external governmental agencies.

The Compliance Hotline telephone number is visibly posted in a manner consistent with employee notification in locations frequented by Arc of Chemung-Schuyler employees, directors, officers, and volunteers.

2. Confidentiality of Reports

Arc of Chemung-Schuyler treats all reports made under this policy confidentially and works to protect the identity of the individual who has made a report to the maximum extent possible consistent with fair and vigorous enforcement of the Corporate Compliance Program and Standards of Conduct while also fulfilling Arc of Chemung-Schuyler's obligation to disclose matters to governmental agencies, as necessary.

3. Tracking/Investigation of Reports

Any manager or supervisor who receives a report of a suspected violation must immediately notify the Compliance Officer. In addition, the Compliance Officer or their designee completes a Compliance Intake Form (**Exhibit A**) for all reports received through the Compliance Office, Arc of Chemung-Schuyler's Compliance Hotline or otherwise. Upon receipt of a Compliance Intake Form, the Compliance Officer or their designee investigates the complaint in accordance with Arc of Chemung-Schuyler's Compliance Investigation policy and procedure CC-030. The Compliance Officer or their designee prepares a report to the Board or its authorized committee quarterly summarizing incidents reported, investigatory findings and any corrective actions taken.

The person who is the subject of the whistleblower complaint may not be present or participate in board or committee deliberations or vote on the matter relating to the complaint (except that nothing prohibits the person from providing background information or answering questions before deliberations/voting begin).

B. Protection from Retaliation/Intimidation

1. General Principles

The Arc of Chemung-Schuyler does not threaten or impose any adverse employment action, including discharge, suspension, demotion, intimidation, harassment, discrimination, or any other adverse action as defined in Section 740 of New York Labor Law in retaliation to an affected individual or former employee who discloses or threatens to disclose to any public body as defined in Section 740 of New York Labor law, whether within the scope of their job duties. This includes employment action that adversely impacts a former employee's current or future employment. Specifically, no adverse employment action will be taken when a covered party or former employee discloses or threatens to disclose any violation of any aforementioned areas governed by Arc of Chemung-Schuyler. This includes, but is not limited to, any activity, policy, or practice by Arc of Chemung-Schuyler that the affected individual reasonably believes presents a substantial and specific danger to public health or safety, constitutes improper quality of care to people receiving supports and services, or constitutes health care fraud. The protections within this section apply when a covered party makes a good faith effort to notify Arc of Chemung-Schuyler of any known or suspected violation(s) of the aforementioned areas governing the Chapter. "Good faith" means the individual believes the potential violation occurred while reporting it.

The affected individual must adhere to the reporting procedures in this policy with the exception of circumstances where there is an imminent and serious danger to public health or safety, the affected individual believes that reporting to the Chapter would result in the destruction of evidence or concealment of the known/suspected violation(s), the known/suspected violation could reasonably be expected to lead to endangering the welfare of a minor or the physical harm to the affected individual or any other person, or the covered party reasonably believes that the Chapter is already aware of the known/suspected violation(s) and will not take corrective action.

An affected individual may seek remedy for alleged retaliatory action for up to two years after the alleged retaliatory action occurred.

Arc of Chemung-Schuylers prohibits adverse employment actions when employees object to or refuse to participate in any activity, policy, or practice in violation of a law, rule, or regulation. All affected individuals are prohibited from engaging in any act, conduct or behavior which results in, or is intended to result in retaliation or retribution against, or intimidation of, any individual for reporting their concerns relating to a possible violation of any aforementioned areas by which Arc of Chemung-Schuylers is governed. Further, Arc of Chemung-Schuylers does not impose any disciplinary or other action in retaliation, including intimidation, harassment, and discrimination, against individuals who provide information or testify before any public body conducting an investigation, hearing, or inquiry into any violation of law, rule, or regulation by Arc of Chemung-Schuylers.

This Policy's non-intimidation/non-retaliation provisions do not permit covered parties to avoid the consequences of their wrongdoing by reporting such wrongdoing. Disciplinary actions taken against a covered party who reports their own wrongdoing result from the wrongdoing itself, not the reporting of such wrongdoing and, therefore, are not considered acts of intimidation, retaliation, or retribution. However, self-reporting may be considered in determining the appropriate disciplinary action to be taken.

2. Reporting Complaints

If an Arc of Chemung-Schuylers affected individual believes in good faith that they have been intimidated or retaliated against for initiating a report or complaint or for participating in any investigation, hearing, or inquiry related to such report or complaint, then the affected individual should report the intimidation/retaliation to their supervisor, manager, the Compliance Officer or Arc of

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Chemung-Schuyler's Compliance Hotline as soon as possible. The report should provide a thorough account of the incident(s); it should include names, dates of specific events (if available), names of any witnesses and the location or name of any document in support of the alleged retaliation. Arc of Chemung-Schuyler conducts a thorough and objective investigation of the incident(s). Adverse actions in retaliation for an affected individual's report or complaint may result in discipline, up to and including termination.

3. Discipline

Any disciplinary action for violation of the Corporate Compliance Plan, Standards of Conduct, policies and procedures or any of the laws, rules or regulations by which Arc of Chemung-Schuyler is governed are imposed under Arc of Chemung-Schuyler's policy and procedure HR-040 Disciplinary Action.

If a covered party makes a frivolous, malicious, or knowingly false report or complaint under this Policy, the covered party is subject to appropriate discipline, up to and including termination of employment and/or contract.

Exhibit A

Arc of Chemung-Schuyler Compliance Intake Form

Compliance File #: _____

Type (circle one): Compliance HIPAA HR Other Legal

***To be completed by the Manager, Supervisor or Compliance Office
Official receiving the complaint:***

Name and position of party providing information, if provided: _____

Date Reported: _____

Facility/Function Reporting: _____

Brief Description of Issue:

To be completed by the Compliance Office only:

Brief Description of Resolution, Including Any Corrective Action, Discipline:

Date Resolved: _____

Investigated/Managed by: _____

Referred to Outside Counsel? Yes/ No

Date Referred: _____

Other Issues:

**Please attach copies of all pertinent documents obtained or created
through your investigation of this complaint.**