



The Arc Mid-Hudson  
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www.ArcMH.org

## **POLICY STATEMENT**

Topic: Reporting Compliance Concerns/Whistleblower and Anti-Retaliation Date Effective: 7/1/2019

☒ Revised ☐ New Section: Corporate Compliance Number: 10.14

Date: 3/13/2023 Approved by:

A handwritten signature in black ink, appearing to read 'Gemma', written over a horizontal line.

## **GOVERNING LAWS & REGULATIONS**

- **Section 715-B New York Not-for-profit Corporation Law (NPCL)**
- **Section 740 of New York Labor Law**
- **Section 363-D of New York Social Services Law**
- **Title 18 Part 521 of New York Codes, Rules and Regulations**

## **POLICY**

Strict adherence to The Arc Mid-Hudson's (Arc Mid-Hudson) Corporate Compliance Plan and Code of Conduct is vital. Arc Mid-Hudson requires all persons who are affected by the provider's risk areas, including employees, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, volunteers, governing body and corporate officers (hereafter identified as "Affected Individuals") to promptly report any known or suspected violation(s) of the Corporate Compliance Plan, Code 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 Mid-Hudson is governed. This policy governs the procedure used by Affected Individuals to report compliance concerns and seeks to ensure that Arc Mid-Hudson provides an environment that encourages individuals to report any suspected violations without fear of retaliation, intimidation, or retribution. Former employees and Medicaid recipients of service are also covered under the protection from retaliation/intimidation section of this document.

## **SCOPE**

This policy applies to all Affected Individuals of Arc Mid-Hudson. This policy will be distributed to all Affected Individuals subject to the agency's risk areas. Additionally this policy is posted to Arc Mid-Hudson's website and at each facility in a conspicuous location, available to all Affected

Individuals. Arc Mid-Hudson Board of Directors oversees implementation of and compliance with this policy.

## PROCEDURE

### A. Duty to Report.

Affected Individuals are encouraged to report any known or suspected violations of the aforementioned areas by which Arc Mid-Hudson is governed to their supervisor, manager, the Compliance Officer or through Arc Mid-Hudson's Compliance Hotline. This duty has limited exemptions to report, as detailed in section B of this policy.

The Arc Mid-Hudson has open communication lines to the Corporate Compliance Officer that are accessible to all employees and other affected individuals that allow compliance issues to be reported. The communication lines include telephone, email, interoffice mail, regular mail, face-to-face interaction, and any other reasonable means to communicate. The communication lines also include a method of anonymous and confidential good faith reporting of potential compliance issues as they are identified. Affected individuals may use whatever form of communication they prefer, including our hotline, where the option to remain anonymous exists.

#### 1. Reporting Through Arc Mid-Hudson's Compliance Hotline

Affected Individuals may report their compliance concerns confidentially to Arc Mid-Hudson's Compliance Hotline. The Compliance Hotline telephone number is 845-331-2408. Callers to the Compliance Hotline may make reports anonymously. No caller is required to disclose their identity, and no attempt shall 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 Mid-Hudson 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 Mid-Hudson employees, directors, officers, volunteers and Medicaid recipients.

#### 2. Confidentiality of Reports

The Arc Mid-Hudson 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 Code of Conduct while also fulfilling Arc Mid-Hudson's obligation to disclose matters to governmental agencies, as necessary.

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### 3. Tracking/Investigation of Reports

Any manager or supervisor who receives a report of a suspected violation completes a Complaint Intake Form (*See Exhibit A*). A copy of the completed Complaint Intake Form is immediately directed to the Compliance Officer. In addition, the Compliance Officer or their designee completes a Complaint Intake Form for all reports received through the Compliance Office, Arc Mid-Hudson's Compliance Hotline or otherwise.

Upon receipt of a Complaint Intake Form, the Compliance Officer or their designee shall investigate the complaint in accordance with Arc Mid-Hudson's compliance investigation policy #10.09.

The Compliance Officer reports to the Board annually summarizing incidents reported, investigatory findings and all 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

Arc Mid-Hudson 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 an Affected Individual or former employee discloses or threatens to disclose any violation of any aforementioned areas governed by Arc Mid-Hudson. This includes, but is not limited to, any activity, policy, or practice by Arc Mid-Hudson 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 an Affected Individual makes a good faith effort to notify Arc Mid-Hudson 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 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 Affected Individual reasonably believes that Arc Mid-Hudson 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 Mid-Hudson 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 Mid-Hudson is governed.

Further, Arc Mid-Hudson 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 Mid-Hudson.

This Policy's non-intimidation/non-retaliation provisions do not permit Affected Individuals to avoid the consequences of their wrongdoing by reporting such wrongdoing. Disciplinary actions taken against an Affected Individual 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 Mid-Hudson 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 Mid-Hudson'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 Mid-Hudson conducts a thorough and objective investigation of the incident(s). Adverse actions in retaliation for an Affected Individual report or complaint may result in discipline, up to and including termination.

## 3. Discipline.

Any disciplinary action for violation of the Corporate Compliance Plan, Code of Conduct, policies and procedures or any of the laws, rules or regulations by which Arc Mid-Hudson is governed are imposed under Arc Mid-Hudson's Discipline Policy #7.01.

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

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## **Exhibit A**

### **Arc Mid-Hudson Compliance Intake Form**

Compliance/Legal Incident File#: \_\_\_\_\_

Type (circle one): Compliance    HIPAA    Human Resource    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.*

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