




POLICY

Effective Date of Policy:	Primary Department:	Date Policy Last Revised: 5/7/12, 3/10/14, 3/7/19
		Secondary Department: All
Subject: CC 100.04 Reporting Compliance Concerns and Whistleblower Protections/Anti-Retaliation		Policy Committee Approval Date:
Created by: Director of Quality Improvement and Corporate Compliance		
Check/Complete All That Apply: Board Approval Required: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Date: _____		CEO Signature: Douglas DiGesare

- I. **POLICY:** Strict adherence to The Arc Erie County New York’s Corporate Compliance Plan and Code of Conduct is vital. The Arc Erie County New York requires all employees, Board of Director members, volunteers, and independent contractors (hereafter identified as “covered parties”) 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 The Arc Erie County New York is governed.

- II. **OVERVIEW:** This policy governs the procedure used by covered parties to report compliance concerns and seeks to ensure that The Arc Erie County New York 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.

- III. **REGULATORY REFERENCE:**
 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

		<h1>PROCEDURES</h1>	
Subject: Reporting Compliance Concerns/Whistleblower/Anti-Retaliation		Date Created:	Last Review Date: 5/17/12 3/10/14, 12/16/21, 2/9/2022
Primary Department: Quality Improvement & Corporate Compliance	Secondary Department: All	Policy Reference: CC 100.004	Written by/Owner: Corporate Compliance Officer

Scope: Applies to all covered parties, i.e., employees, Board of Directors, interns, independent contractors, and volunteers of The Arc Erie County New York. This policy will be located on The Arc Erie County New York’s website.

Definitions:

Good faith - the person believes the potential violation actually occurred as they are reporting it.

Process Overview:

A. Duty to Report:

Covered parties are required to report any known or suspected violations of the Corporate Compliance Plan, Code of Ethics, policies and procedures or any of the laws, rules or regulations by which The Arc Erie County New York is governed to the Corporate Compliance Officer, their supervisor, manager, or through The Arc Erie County New York’s Compliance Hotline. This duty has limited exemptions to report, as detailed in section B of this policy.

Reporting Through The Arc Erie County New York’s Compliance Hotline:

Covered parties, as well as people supported and family members, may report their compliance concerns confidentially to The Arc Erie County New York’s Compliance Hotline. The Compliance Hotline telephone number is **(716) 1-833-Arc-Erie ext. 2603**. Callers to the Compliance Hotline may make reports anonymously. No caller is required to disclose their identity and no attempt

is 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. Callers should be aware, however, that it may not be possible to preserve anonymity if they identify themselves, provide other information which identifies them, the investigation reveals their identity, or they inform people that they have called the Compliance Hotline. Callers should also be aware that The Arc Erie County New York is legally required to report certain types of 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 The Arc Erie County New York employees, Board of Directors, interns, and volunteers.

Confidentiality of Reports:

The Arc Erie County New York treats all reports made under this policy confidentially and to protect the identity of the affected party who has made a report to the maximum extent possible consistent with fair and rigorous enforcement of the Corporate Compliance Program and Code of Ethics while also fulfilling The Arc Erie County New York's obligation to disclose matters to governmental agencies as necessary.

Tracking/Investigations of Reports:

Any employee, manager or supervisor who receives a report or is made aware of a potential compliance issue should report this immediately to the Corporate Compliance Officer via email, phone, or in person.

The Corporate Compliance Officer or their designee conducts an investigation in accordance with **Policy CC/LG 100.042 Corporate Compliance Investigations**.

The Corporate Compliance Officer prepares a report to the Operational Compliance Committee (which meets on a bi-monthly basis) and to the Corporate Compliance committee (which meets quarterly) providing a report to the full Board, summarizing incidents reported, investigatory findings and any corrective actions taken.

The person who is 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 noting prohibits the person from providing background information or answering questions before deliberations/voting begin).

B. Non-Retaliation/Non-Retribution:

General Principles:

The Arc Erie County New York 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 a covered party 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 threaten to disclose any violation of any aforementioned areas governed by The Arc Erie County New York, as well as any government entity/public body (OMIG, MFCU, DOH, OIG, US Attorney's Office etc.) This includes, but is not limited to, any activity, policy, or practice by The Arc Erie County New York that the covered party 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 The Arc Erie County New York 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 covered party 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 covered party believes that reporting to The Arc Erie County New York 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 covered party or any other person, or the covered party reasonably believes that The Arc Erie County New York is already aware of the known/suspected violation(s) and will not take corrective action.

A covered party may seek remedy for alleged retaliatory action for up to two years after the alleged retaliatory action occurred.

The Arc Erie County New York 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 covered parties 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 The Arc Erie County New York is governed.

Further, The Arc Erie County New York 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 The Arc Erie County New York.

The non-intimidation/non-retaliation provisions of this Policy do not permit covered parties to avoid the consequences of their own wrongdoing by reporting such wrongdoing. Disciplinary

actions taken against an employee, director, officer, or volunteer who reports their own wrongdoing are a result of the wrongdoing itself, not the reporting of such wrongdoing and, therefore, are not considered acts of intimidation, retaliation or retribution. Self-reporting may, however, be taken into account in determining the appropriate disciplinary action to be taken.

Reporting Complaints:

If a The Arc Erie County New York covered party believes in good faith that they have been 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 Arc Erie County New York covered party should report the intimidation/retaliation to the Corporate Compliance Officer or The Arc Erie County New York's Compliance Hotline as soon as possible. The report should provide a thorough account of the incident(s) and should include names, dates of specific events (if available), the names of any witnesses and the location or name of any document in support of the alleged retaliation.

The Arc Erie County New York conducts a thorough and objective investigation of the incident(s).

Adverse actions in retaliation for a covered parties' report or complaint may result in discipline, up to and including termination.

Discipline:

Any disciplinary action for violation of the Corporate Compliance Plan, Code of Ethics, policies and procedures or any of the laws, rules or regulations by which The Arc Erie County New York is governed are imposed in accordance with The Arc Erie County New York's **Policy 400.001 Progressive Discipline.**

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.