

Schenectady County Chapter NYSARC, Inc.

CORPORATE COMPLIANCE POLICIES

(as adopted by the Board of Directors October 21, 2004)

(As Amended May 24, 2007)
(As Amended October 4, 2011)
(As Amended February 23, 2012)
(As Amended August 1, 2016)
(As Amended 11/2018)
(As Amended 3/2019)
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Introduction

These corporate compliance policies state the policies of Schenectady County Chapter NYSARC, Inc. (Schenectady ARC) with respect to providing, documenting and billing for services provided to consumers of Schenectady ARC. These policies are the foundation for a Corporate Compliance Program that is intended to ensure that the programs we offer are provided with the highest level of quality and integrity. These policies are intended to be read together with, and in harmony with, other policies and procedures of Schenectady ARC that address employment practices, operations, quality improvement, confidentiality (HIPAA), billing and documentation. It is the intent of the Board of Directors, as expressed in these policies and procedures that the highest standards of quality and ethics should prevail in delivering services and meeting the needs of the consumers and families served by Schenectady ARC. Accordingly, if there is any conflict between any other procedure or policy of Schenectady ARC and these corporate compliance policies, the ethical standards, policies and procedures set forth herein should prevail.

I. Standards of Conduct

A. General Principles

The mission statement of Schenectady ARC, adopted by the Board of Directors in 2003, states:

Schenectady ARC is committed to helping people in the Capital Region enjoy healthy, rewarding lives as members of the community. Schenectady ARC brings staff, families and the community together to encourage dreams and respond to each person's life choices by offering high quality services, resources and supports.

The Board of Directors adopts these policies in furtherance of the agency's mission to offer the highest quality services, resources and supports. All employees, contractors and volunteers working for or providing services on behalf of Schenectady ARC are expected to conduct themselves in a professional, lawful, honest and ethical manner at all times. It is the policy of Schenectady ARC that all services must be delivered, documented and billed for in compliance with all existing rules, regulations, laws and ordinances.

B. Creating A Culture of Compliance

In addition to complying with all existing laws, regulations and policies, all employees are expected to contribute to a "culture of compliance." That is, all employees should carry out their job duties in a manner that creates an environment where all employees are aware of their responsibilities and are fully prepared to meet their responsibilities, and where dishonesty or unethical or illegal behavior is not tolerated. A "Code of Conduct" that summarizes the ethical and quality expectations of all employees will be distributed to all employees, who will acknowledge in writing their receipt of the Code of Conduct and their willingness to abide by its provisions. As part of this Code of Conduct, and in furtherance of the policy of creating a "culture of compliance," all employees are expected to report any dishonest, unethical or illegal behavior, pursuant to the lines of communication described in greater detail in these policies.

C. Policies Regarding Specific Risk Areas

In addition to the general principles of honesty, quality and compliance described above, Schenectady ARC has identified the following specific "risk areas" that require more detailed policies and procedures to assist employees in fulfilling the agency's mission of providing the highest quality services in a legal and ethical manner. The policies with respect to the risk areas are set forth hereafter; the practices and procedures with respect to each risk area may be contained in separate documents, which will be reviewed, updated and implemented as frequently as necessary to meet the requirements of the law and the goals of these policies.

Billing Practices: Schenectady ARC will bill, and accept payment for, only those services that were provided and documented as required by all applicable rules, contracts,

regulations and/or laws. Each program area, in conjunction with the corporate compliance officer, the quality assurance department, and Legal Counsel¹, shall develop written practices and procedures that clearly delineate the steps necessary to properly document and bill for services provided by that program. At least once a year, but more frequently if necessary, the Corporate Compliance Officer shall review the billing and documentation practices and procedures established for each program area to insure compliance with current law and regulations. The Corporate Compliance officer, in conjunction with Legal Counsel, will be responsible for insuring that changes in law, regulations or policies that will affect billing practices and procedures are incorporated into the procedures and communicated to all appropriate personnel.

Without limiting the foregoing, it is the policy of Schenectady ARC that no employee shall knowingly submit a false claim; that no employee shall improperly alter records or billing documents; that no employee will sign another persons' name to any document; and that no employee will add a date or change a date on a document to make it appear as though the document was created at a different time.

D. Fraud Prevention Policy

It is the policy of Schenectady ARC to detect and prevent fraud, waste and abuse in federal healthcare programs. One of the ways in which this policy is implemented is by training employees about the scope and uses of the Federal False Claims Act, 31 U.S.C. § 3729 et seq., as well as with respect to any comparable New York statute should one be enacted.

The False Claims Act (FCA) provides that anyone who “knowingly” submits false claims to the Government is liable for damages up to three times the amount of the erroneous payment plus mandatory penalties. An overview of the FCA, including civil penalty amounts, can be found at <https://www.justice.gov/civil/false-claims-act>. The FCA defines “knowingly” to mean that a person (1) has actual knowledge of the false claim; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information.

The FCA may be violated by the following acts:

- a) Knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval by the federal government;
- b) Knowingly making or using, or causing to be made or used, a false record or statement to get a false claim paid or approved;
- c) Conspiring to defraud the government by getting a false or fraudulent claim allowed or paid; or

¹ Legal Counsel, as used in these policies, refers to either legal counsel employed by Schenectady ARC, or to counsel retained by Schenectady ARC.

d) Knowingly making, using or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay money or transmit property to the Government.

The FCA applies to claims submitted for payment by federal health care programs, including Medicaid and Medicare. The FCA applies to claims for payment for many of the programs operated by Schenectady ARC because many of these programs are funded by Medicaid. For example, our waiver services, such as our Day Habilitation programs and our IRA's, are funded by Medicaid. Intentionally submitting false information to allow Schenectady ARC to bill for any of these programs would be a violation of the FCA.

Other examples of acts that would violate the FCA are billing for services that are not actually rendered; charging more than once for the same service; billing for services that are not medically necessary; knowingly billing for inadequate or sub-standard care; and falsifying time records or other records that are used to bill Medicaid.

One of the primary purposes of these Corporate Compliance policies is to train Schenectady ARC employees and contractors so they will not engage in wrongful acts and so they will detect and disclose if other employees or contractors are engaging in wrongful activities. In addition, either the Government or an individual citizen acting on behalf of the Government (a "relator") can bring legal actions under the False Claims Act. If a Relator brings an action under the FCA, the Government has a period of time to investigate the allegations and decide whether to join the lawsuit. If the Government elects to join the lawsuit, the Relator is entitled to 15-25% of any recovery from a successful suit. If the Government elects not to join the lawsuit, the Relator may still proceed with the action, and may be awarded 25-30% of any recovery from a successful lawsuit.

The State False Claims Act and Other State Laws: In addition to the FCA, there is a state False Claims Act, as well as several other state laws, that prohibit fraud and false statements in the course of providing and/or billing for services that are funded by Medicaid, Medicare or other federal or state funds. It is the policy of Schenectady ARC to comply with these laws and to train its employees in these measures to insure that services are provided in a manner that complies with all applicable laws, rules and regulations. A summary of these laws is as follows:

New York State False Claims Act: The New York State False Claims Act was modeled after the Federal FCA (described above) and its provisions are very similar. The state FCA provides that anyone who "knowingly" submits false claims to the Government is liable for damages up to three times the amount of the erroneous payment plus mandatory penalties between \$6000 and \$12,000 for each false claim submitted. The state FCA defines "knowingly" to mean that a person (1) has actual knowledge of the false claim; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information.

The Government, or an individual citizen acting on behalf of the Government (a “relator”) can bring actions under the state FCA. In addition, the state FCA prohibits discrimination against an employee for taking lawful actions in furtherance of an action under the Act. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in furtherance of an action under the state FCA is entitled to all relief necessary to make the employee whole.

Social Services Law § 145-b: Under this law it is unlawful to knowingly make a false statement or representation, or to deliberately conceal any material fact, or engage in any other fraudulent scheme or device, to obtain or attempt to obtain payments under the New York State Medicaid program. In the event of a violation of this law, the local Social Services District or the State has a right to recover civil damages equal to three times the amount of the incorrectly paid claim. In the case of non-monetary false statements, the local Social Service District or State may recover three times the damages (or \$5000, whichever is greater) sustained by the Government due to the violation. In addition, the Department of Health may impose a monetary penalty of up to \$10,000 per violation unless a penalty under the section has been imposed within the previous five years, in which case the penalty may be up to \$30,000.

Social Services Law § 366-b: Under this section any person who, with intent to defraud, presents for payment any false or fraudulent claim for services or merchandise, or knowingly submits false information for the purpose of obtaining compensation greater than that to which he/she is legally entitled shall be guilty of a class A misdemeanor.

Penal Law art. 177: This article establishes the crime of Health Care Fraud. A person commits such a crime when, with the intent to defraud Medicaid (or other health plans, including non-governmental plans) he/she knowingly and willfully provides false information or omits material information for the purpose of requesting payment for a health care item or service and, as a result of the false information or omission, receives such a payment in an amount to which he/she is not entitled. Health Care Fraud is punished with fines and jail time based on the amount of payment inappropriately received due to the commission of the crime.

Social Services Law § 363-d, Reporting to any government entity: This section offers additional protections to employees who notice and report inappropriate activities to any governmental entity. Under this section, an employer may not take any retaliatory personnel action against an employee because the employee:

- *discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation that presents a substantial and specific danger to the public health or safety, or which constitutes health care fraud;

- *provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by such employer;

or

*objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

To bring an action under this provision, the employee must first bring the alleged violation to the attention of the employer and give the employer a reasonable opportunity to correct the allegedly unlawful practice. The law allows employees who are the subject of a retaliatory action to bring a civil action in court and seek relief such as injunctive relief to restrain continued retaliation as well as reinstatement, back pay and compensation of reasonable costs. The law also provides that employees who bring an action without basis in law or fact may be held liable to the employer for its attorney's fees and costs.

It is the policy of Schenectady ARC to train its employees, contractors and agents about Schenectady ARC's commitment to honesty and accuracy in submitting claims and documentation of any kind. In furtherance of that policy, directors, officers, employees, contractors and agents will be provided with copies of these policies and will be trained with respect to the federal FCA, the state FCA, and all other applicable state laws. These policies will also be included in the employee personnel policies manual.

The purpose of training employees, contractors and agents is to make sure that all employees, contractors and agents are aware that honesty and accuracy in documentation, record keeping and claims submission is of the highest priority to the Board of Directors and the management of the agency, and to encourage employees to report any concerns or issues that they believe may be violations of law or these policies. In addition, as detailed hereafter, it is the policy of Schenectady ARC to not retaliate against any directors, officers, employee, volunteer, contractor or agent who in good faith files a complaint with any state or federal regulatory or oversight agency.

Quality of Care: In addition to the general commitment to delivering the highest quality services set forth in these policies, Schenectady ARC has developed several other procedures and policies that are focused on monitoring and improving the quality of services offered by Schenectady ARC. Specifically, the Quality Assurance Department is responsible for interacting with regulators (OPWDD) during audits, reviews and investigations. The Quality Assurance Department is responsible for working with program staff to develop Plans of Corrective Action in response to any Statements of Deficiency submitted by OPWDD. This Department is also responsible for training staff, as necessary, following up on the implementation of plans of corrective action, and making recommendations for changes in policies and procedures that will improve quality.

It is the policy of Schenectady ARC to continually review and examine the quality of the services that it provides, and to develop and implement procedures and practices that will insure that Schenectady ARC programs are of the highest quality. This process is implemented through a Quality Improvement Committee, which is responsible for developing and overseeing a Quality Improvement Plan. The Quality Improvement

Committee is comprised of representatives from every program area, as well as at least one representative from the Board of Directors.

Employee screening and hiring: It is the policy of Schenectady ARC to screen applicants to the extent permitted or required by law, including, where available, using statewide or federal databanks that provide information about criminal convictions and/or listings on sex offender or child abuse registries. In addition, it is the policy of Schenectady ARC to screen every applicant and every contractor who is or who might provide services that would be billed to (or that would be the basis for any billing to) any federal Healthcare program, using the United States Department of Health and Human Services Office of the Inspector General (OIG) database list of “Excluded Individuals/Entities”, the General Services Administration (GSA) Excluded Parties List System, System for Award Management (SAM) (This website provides information on parties excluded from receiving federal contracts), and the NYS Medicaid Fraud Database. The exclusion screening will be performed on all applicants for employment as part of the pre-employment screening process, members of our Board of Directors, outside physicians and QIDP’s that sign Level of Care Eligibility Determination Forms and on contractors prior to entering a business contract with the vendor and monthly thereafter. Schenectady ARC will not employ, contract with or conduct business with an individual or entity excluded from participation in federally sponsored health care programs such as Medicaid and Medicare. Schenectady ARC will not hire any employees without first obtaining satisfactory personal and professional references, as well as current licensing or certification information, if required for the position. Schenectady ARC will independently verify professional licensing information prior to employment, and at random intervals after hire, to insure that properly licensed professionals are hired as required by law or the requirements of a given position. Schenectady ARC will provide contractors with copies of the Corporate Compliance Program, the Code of Conduct for Contractors and Vendors, and information regarding the whistleblower laws and the federal and state false claims act. They will also be asked to sign and return an acknowledgment form which is their agreement to comply by the policies when they are doing work for Schenectady ARC. It is the policy of Schenectady ARC to use this information, in a manner consistent with all applicable federal and state employment civil rights laws, to hire the best-qualified employees available.

Prevention of Kickbacks, Inducements and Self-Referrals: It is the policy of Schenectady ARC to comply with all federal, state and local laws, rules and regulations with respect to billing procedures, contracts and agreements with other providers. In particular, it is the policy of Schenectady ARC to comply with the anti-kickback statute, the Stark physician self-referral law, and New York State laws addressing the delivery of health care. In furtherance of this policy, Schenectady ARC will have all contracts or other agreements with other providers reviewed by Legal Counsel to insure compliance with all applicable laws. It is the policy of Schenectady ARC to prohibit soliciting, accepting or offering any gift or gratuity of more than nominal value to or from consumers, potential referral sources, and/or other individuals or entities with which Schenectady ARC has a business relationship. It is the policy of Schenectady ARC to charge, and to pay, fair market value for all goods and services provided and procured. Schenectady ARC will not

provide information about the consumers it serves in exchange for payment or goods, and will not enter into any agreement with vendors or suppliers that ties the price of goods or services received to the purchase or acquisition of goods or services covered by Medicare, Medicaid or other insurances.

90 Day Billing Codes, It is the policy of Schenectady ARC to comply with the federal, state and local laws, rules and regulations with respect to 90 day billing and the usage of 90 day billing exception codes.

Level of Care Eligibility Determination (LCED), It is the policy of Schenectady ARC to comply with the federal, state and local laws, rules and regulations with respect to LCED's.

E. Creation and Retention of Records

It is the policy of Schenectady ARC that employees, volunteers and contractors shall properly document all services and shall maintain the security and confidentiality of all consumer information as required by HIPAA, New York State Law and Schenectady ARC's policies and procedures. Each department shall develop, in conjunction with the Corporate Compliance Officer, Agency Controller and Legal Counsel, a schedule of record retention for documents regularly generated, received and/or maintained by that department. Each department shall develop procedures to insure the physical security of paper records and, in conjunction with the Management Information Systems (MIS) Department, procedures for the secure generation, storage, retention and security of electronic records. All employees shall follow all Schenectady ARC practices and procedures with respect to the retention and safeguarding of records, as well as the destruction of outdated documents and the deletion or eradication of electronic records in a manner that preserves confidentiality and complies with HIPAA.

F. Compliance As An Element of Employee Performance

In furtherance of its policy of creating a "culture of compliance" among all employees, volunteers, and contractors of Schenectady ARC, it is the policy of Schenectady ARC that all employees shall be trained on all elements of their job with respect to compliance, and that all employees shall be evaluated, as part of their annual performance evaluation, on how well each employee has fulfilled his or her particular responsibilities with respect to compliance. In particular, employee performance reviews shall be designed in a manner that identifies areas in which an employee has not fulfilled his or her responsibilities with respect to compliance, and which rewards employees who have fulfilled or exceeded expectations with respect to compliance. Managers, supervisors and employees who have demonstrated leadership in the advancement of the agency's code of conduct or compliance policies, or who have contributed significantly to creating a culture of compliance, will be singled out for recognition. Managers, supervisors and employees will be disciplined for failing to adequately instruct the

persons who report to them, or for failing to detect noncompliance with applicable policies and legal requirements where reasonable diligence would have led to the discovery of problems or violations.

II. Designation of a Compliance Officer and a Compliance Committee

It is the policy of Schenectady ARC to implement, monitor and enforce these compliance policies and its Corporate Compliance Program through the employment of a Corporate Compliance Officer and the designation of a Corporate Compliance Committee.

A. The Corporate Compliance Officer

The Executive Director shall hire or appoint an employee to the position of Corporate Compliance Officer. This position shall report directly to the Executive Director and, as necessary, to the Board of Directors and without having to report to others. The Corporate Compliance Officer shall be the primary person responsible for overseeing and monitoring the implementation of the compliance program. The Corporate Compliance Officer shall be responsible for developing, with program directors, practices and procedures for billing and documentation that are fully compliant with the rules, requirements and laws applicable to each program area.

The Corporate Compliance Officer, working with Legal Counsel, shall have primary responsibility for keeping all aspects of billing procedures and practices up to date and compliant with existing regulations. The Corporate Compliance officer, working with the training coordinator and the Human Resources Department, shall be responsible for developing and assisting with the implementation of a multi-faceted training program that educates employees and volunteers at all levels of the agency on both individual responsibilities and agency requirements of the Corporate Compliance Program.

The Corporate Compliance Officer, working with department heads, shall develop protocols for the regular monitoring and auditing of billing practices, documentation procedures, and other aspects of this compliance program by the business office or staff in each department, with the results of the internal monitoring being reported to the Corporate Compliance Officer and the Executive Director. In addition, the Corporate Compliance Officer shall conduct periodic independent audits and reviews of every department's billing practices and procedures, at least annually but more frequently if possible, and shall report the results of such audits and reviews to the Executive Director and to the Compliance Committee.

The Corporate Compliance Officer shall report to the Executive Director and the Compliance Committee on a regular basis on all aspects of the implementation of the Corporate Compliance Program. In addition to reporting specific findings, the Compliance Officer will work with the Executive Director, the Compliance Committee

and the management of the agency to identify and implement best practices in the field for developing a “culture of compliance” and for insuring that all aspects of the compliance program are followed. The Corporate Compliance Officer, in conjunction with Legal Counsel, will identify and participate in the self-reporting of violations of rules, procedures and laws, when such self-reporting is required by law or by this compliance program. The Corporate Compliance Officer shall have full access to all agency records with respect to billing and documentation for billing, as well as to any other records necessary for the compliance activities of the Corporate Compliance Officer. It is the policy of Schenectady ARC to make sufficient resources available to hire and train a Corporate Compliance Officer, and to enable that person to carry out the responsibilities described herein. This also applies to the staff that may assist the Corporate Compliance Officer if necessary.

B. The Corporate Compliance Committee

It is the policy of Schenectady ARC to have a Corporate Compliance Committee to assist with the implementation and monitoring of these corporate compliance policies. The chair of the Corporate Compliance Committee will be a member of the Board of Directors and shall be appointed by the President each July. The Chair shall select members for the committee; however, there shall always be one member of the Quality Committee, and one member of the Incident Review Committee represented on the Corporate Compliance Committee. The Corporate Compliance Officer, Legal Counsel, and the Executive Director shall participate on the committee as non-voting members.

The Corporate Compliance Committee shall make any recommendations to the Board of Directors with respect to changes in Corporate Compliance policy. The Committee shall receive and review reports from the Corporate Compliance Officer on the results of audits and reviews conducted by the Corporate Compliance Officer. The Committee shall prepare an annual report for the Board of Directors advising on the status of compliance activities and containing recommendations for the growth and enhancement of a “culture of compliance” among all levels of personnel at Schenectady ARC. The Corporate Compliance Committee will be available to the Corporate Compliance Officer and to other employees of Schenectady ARC to hear and respond to any complaint that improper or illegal activity is occurring that has not been resolved to the complainants’ satisfaction. The Corporate Compliance Committee, subject to any restrictions arising from any continuing investigation or any enforcement activity, shall report to the Board of Directors on all such complaints and their resolution.

III. **Training and Education**

It is the policy of Schenectady ARC that communication of, and education about, the Corporate Compliance program to directors, officers, employees, volunteers and contractors at all levels of the agency are the primary methods for implementing this program and instilling a culture of compliance. The essential elements of honesty and integrity in documentation and billing will be incorporated into the agency Code of Conduct, which will be provided to every employee at the time his or her employment

begins, and which will be required to be acknowledged by every employee. The Corporate Compliance Officer, in conjunction with the Human Resources Department and the Training Department, will incorporate training on the Code of Conduct and the elements of the Corporate Compliance program into the new employee orientation training, which every Schenectady ARC employee (including the chief executive) is required to attend within his or her first month of employment. This training shall include training on the False Claims Act, as well as training on the rights and obligations of employees to not violate the FCA and to report any behavior that they believe may violate the FCA. This training shall also include information on Schenectady ARC's corporate compliance hot line, and on Schenectady ARC's policy of non-retaliation and non-intimidation for complaints made in good faith.

The Corporate Compliance Officer, in conjunction with each department head, shall provide refresher training to all staff on at least an annual basis, and more frequently if there are changes in rules, regulations, or policies, or if there are incidents or events of non-compliance that indicate more training is necessary. Employees who do not complete required periodic trainings will be subject to the full range of disciplinary steps, including the loss of scheduled bonus payments, verbal warnings, written warnings and/or termination.

Interns/Student Interns are periodically retained by certain departments within the agency (ex: Clinical). All Interns are required to attend the full orientation on Corporate Compliance within 30 days of taking on their position. Interns are normally scheduled on a part-time basis.

The Corporate Compliance Officer shall provide training to any new member of the Board of Directors, to any non-Board members of the Compliance Committee, and to any other volunteers who might be in a position to address documentation, privacy or compliance issues, addressing the various facets of the Corporate Compliance program and, for Board members, addressing the legal responsibilities that are part of the role of the governing Board. This training will then be repeated on an annual basis.

The Senior managers of Schenectady ARC will also complete on at least an annual basis Compliance training on all aspects of the agency's Corporate Compliance program, so all departments have knowledge of the compliance activities taking place in other departments within Schenectady ARC. The goal of all these trainings is to ensure that Schenectady ARC offers the highest quality services, with the highest level of honesty, accuracy and integrity in billing and documentation. In addition to the training Senior Management along with the Board of Directors are required to provide a Conflict of Interest Statement on an annual basis.

Schenectady ARC is also committed to ensuring effective training and education for the compliance officer. This training and education shall be provided through attendance at training sessions and webinars, membership in various trade associations and health

care compliance associations, and any other means that will permit Schenectady ARC's compliance officer to stay current and knowledgeable about issues and best practices for compliance activities for organizations like Schenectady ARC.

IV. Developing Effective Lines of Communication and Policy of Non-Intimidation/Non-Retaliation

It is the policy of Schenectady ARC to support and encourage open lines of communication between all employees and volunteers and the Corporate Compliance Officer, the Executive Director, the Corporate Compliance Committee and the board of directors. It is the policy of Schenectady ARC that if, in the context of making a complaint or an inquiry about any type of compliance matter, an employee requests confidentiality, Schenectady ARC will honor that request, subject to the condition that the confidentiality may be breached if an investigation reveals that the complaining employee was involved in an unlawful or improper practice, or that a full investigation of the allegation cannot be made without breaching confidentiality.

Non-Intimidation/Non-Retaliation: Schenectady ARC will not impose any disciplinary action or other adverse action, including intimidation, harassment, and discrimination, against any individuals who, in good faith, makes a report or complaint or threatens to disclose to appropriate officials or to "any government entity" any action, suspected action, or inaction taken by or in the Schenectady ARC that the individual believes may violate Schenectady ARC's Corporate Compliance Plan, Code of Conduct, Compliance Policies, or any of the laws, rules, regulations by which Schenectady ARC is governed. This includes, but is not limited to, action or inaction on the part of Schenectady ARC that presents a substantial and specific danger to public health or safety, may be reasonably believed to constitute improper quality of care to individuals receiving services, or constitutes health care fraud.

"Good faith" means the individual believes, and has a reasonable basis for that belief, that the potential violation actually occurred as they are reporting it.

Schenectady ARC prohibits retaliatory personnel actions against employees when employees object to or refuse to participate in any activity, policy or practice that the employee believes, in good faith, is in violation of a law, rule or regulation. All employees, directors, officers, and volunteers of Schenectady ARC are strictly 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 Schenectady ARC's Corporate Compliance Plan, Code of Conduct, its Compliance Policies or any of the laws, rules or regulations by which Schenectady ARC is governed.

Further, Schenectady ARC will 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 Schenectady ARC.

The non-intimidation/non-retaliation provisions of this Policy do not permit employees, directors, officers, or volunteers 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 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 Schenectady ARC employee, director, officer, or volunteer 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 Schenectady ARC employee, director, officer, or volunteer should report the intimidation/retaliation to their supervisor, manager, the Compliance Officer, the Human Resources Department, or Schenectady ARC's Compliance Helpline 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. Schenectady ARC will conduct a thorough and objective investigation of the incident(s).

Discipline. Any disciplinary action for a violation of the Corporate Compliance Plan, Code of Conduct, policies and/or procedures of Schenectady ARC, or any of the laws, rules or regulations by which Schenectady ARC is governed shall be imposed in accordance with Schenectady ARC's Discipline Policy. Any finding that adverse actions were taken in retaliation for an employee's report or complaint also shall result in discipline, in accordance with Schenectady ARC's Discipline Policy..

In the event an employee makes a frivolous, malicious or knowingly false report or complaint under this Policy, the employee is subject to appropriate discipline, in accordance with Schenectady ARC's Discipline Policy..

This policy of non-retaliation and non-intimidation applies to any action taken by any directors, officers, volunteer, and employee in good faith, including any lawful actions or claims made by the person under the False Claims Act.

This policy of non-intimidation and non-retaliation also protects those conducting investigations, conducting self-evaluations, as well as persons conducting audits, and/or recommending/implementing corrective and mitigation actions.

To facilitate these policies, all directors, officers, volunteers, and employees will be provided with Schenectady ARC's corporate compliance hot line phone number, the phone number and extension of the Corporate Compliance Officer, as well as with the Corporate Compliance Officer's e-mail address. At the new employee orientation, and at the trainings provided by the Corporate Compliance Officer, employees will be advised of the ability to make confidential inquiries, as described above, and of the "no retaliation, no intimidation" policy set forth in this Corporate Compliance Program. Directors, officers, volunteers, and employees will be advised that the Corporate

Compliance Officer is a resource to provide information and answer questions about the Corporate Compliance Program. Directors, officers, volunteers, and employees will also be provided with telephone number and e-mail address of the Executive Director with the direction that this individual should be called if there is any question about whether the Corporate Compliance Officer has fully responded to any complaint, or if there is any other question as to whether the Corporate Compliance Officer is performing his or her duties.

Although not encouraged, it is the policy of Schenectady ARC that it will investigate and respond to anonymous complaints. Because complaints that are attributable to an individual are both inherently more credible and easier to investigate, complainants will be encouraged to identify themselves. Directors, officers, volunteers, and employees will be trained and reminded that complaints will be kept confidential, subject to the limitations set forth above, and that Schenectady ARC has a non-retaliation and non-intimidation policy for complaints made in good faith.

It is the policy to promptly respond to compliance issues as they are raised, investigate potential compliance problems as identified through self-evaluations and audits, correct problems promptly and thoroughly to reduce the potential for recurrence and ensure ongoing compliance.

It is the policy, expectation and requirement of Schenectady ARC that all affected parties participate and cooperate with the investigation of compliance issues and all complaints shall be logged, together with a summary of the investigation of the complaint and the results. The Corporate Compliance Officer will provide the Board of Directors, the Executive Director and the Corporate Compliance Committee with regular reports enumerating the complaints received, the response, and the outcome of any investigation. Such reports will have identifying information redacted.

V. Auditing and Monitoring

Schenectady ARC will establish and implement an effective system for routine monitoring and identification of compliance risks. The system will include internal monitoring and evaluate the effectiveness of its Corporate Compliance program by conducting regular audits of the documentation and billing records maintained for each program, and by identifying and monitoring objective indicia of quality. The system will also include as appropriate, external audits, to evaluate the organization's compliance with the medical assistance program requirements and the overall effectiveness of the compliance program.

Schenectady ARC will prioritize high risk areas when determining what programs should be audited more than annually. Auditing will be used to identify specific instances of improper billings; to assess the overall level of accuracy of records and documentation; to identify personnel who may need more training or education to fulfill their responsibilities; and to identify any trends or issues that would be indicative of systemic problems or weaknesses.

Auditing and monitoring shall be conducted both by the Corporate Compliance Officer, using sampling and testing protocols that are utilized by the Office of People With Developmental Disabilities or that have been identified as representing the best tools available, and by each department, using protocols developed in conjunction with the Corporate Compliance Officer. The results of every internal audit shall be provided to the Corporate Compliance Officer. The results of every audit, and summaries of every complaint investigation conducted by the Corporate Compliance Officer shall be shared with the Executive Director and the Corporate Compliance Committee. Summaries of audits, trends identified by audits, and any complaint or audit that triggers a significant voiding or payback or that results in notification to regulators or enforcement agencies, shall be reported to the Board of Directors.

The response to each audit shall be determined on a case by case basis. In every case, however, any improper billing shall be corrected immediately by voiding or paying back to appropriate government agencies to maintain compliance with medical assistance program any funds received as a result of such improper billing. Under the Affordable Care Act of 2010 (ACA) we will report, refund and explain each overpayment that is not the result of a clerical or other minor error to the OMIG within 60 days of identification of an overpayment or the date any corresponding cost report is due. In deciding whether an overpayment is the result of a clerical or other minor error, such that it may be voided through a regular billing process, rather than reported to and paid back to the OMIG, Schenectady ARC will consider the totality of the circumstances including the amount of the error, whether the error resulted from any systemic issues, intentional misconduct or other egregious misconduct, as well as any guidance that may be issued by the OMIG or any other regulatory body. If any case in which Schenectady ARC chooses to void through a regular billing process rather than report to the OMIG and repay to the OMIG, Schenectady ARC will maintain the documentation that it relied upon in making that determination.

Any audit based on a sample of documents that identifies a significant number of problems will be followed by a review of every relevant record, for a time period to be determined by the Corporate Compliance Officer, in conjunction with the agency controller, Legal Counsel and the executive director.

The Quality Assurance Department, in conjunction with the Quality Assurance Committee, shall be responsible for identifying and monitoring objective indicators of the quality of care provided by every department of Schenectady ARC. The Quality Assurance Department, in conjunction with the affected department, shall be responsible for developing and monitoring the implementation of any Plans of Corrective Action required in response to any external audits or assessments conducted by OPWDD, the Commission on Quality of Care, or any other entity charged with regulation of programs. The President of the Board of Directors will sign off on every Plan of Corrective Action. The Quality Assurance Department and Committee will notify the relevant department, the Executive Director and the department Committee, of any trends or systemic issues identified by monitoring or responding to external reviews.

It is the policy of Schenectady ARC that at least annually, it will audit the implementation of these corporate compliance policies. This audit may be done by the

Corporate Compliance Committee, using internal resources, or it may contract with an external consultant with sufficient expertise to review and report to the Committee and the Board of Directors on the implementation of these policies. To insure that there is an objective assessment of the implementation of these policies, however, at least once every two years the audit will be conducted by an external entity or individual, with the results provided to the Executive Director, the Board of Directors, and the Corporate Compliance Committee.

VI. Enforcing Standards Through Well-Publicized Disciplinary Guidelines

Schenectady ARC, through its Human Resources Department, prepares and distributes an Employee Manual that provides employees with details about the terms and conditions of their employment. These guidelines are not contractual; they are subject to change or modification as may be necessary to meet the requirements of law or as necessary to fulfill the mission of Schenectady ARC. It is the policy of Schenectady ARC, however, to apply the guidelines contained in the Employee Manual on a consistent basis, so that similarly situated employees are treated the same.

One aspect of employment addressed in the Employee Manual is the range of possible sanctions for conduct that violates the code of conduct or otherwise fails to meet the standards or requirements of Schenectady ARC as an employer. The Employee Manual also details the steps an employee may take (the grievance process) if they disagree with a sanction that a supervisor has determined to be appropriate. Review of these aspects of the Employee Manual is part of the new employee orientation process. At all training sessions at which this compliance policy is addressed, employees will be advised that failure to comply with the applicable elements of this Corporate Compliance policy will result in the imposition of sanctions in accordance with Schenectady ARC's Discipline Policy. The nature of the sanction to be imposed will be determined by the supervisor, in conjunction with the Department Head and the Director of Human Resources. To insure that disciplinary measures are imposed in a consistent manner across all programs and departments, the Director of Human Resources will be consulted where any sanction greater than a written warning is proposed. Although every situation must be assessed on an individual basis, it is the policy of Schenectady ARC that similar offenses, including violations of this Corporate Compliance policy, should be subject to similar sanctions. This policy is intended to apply to all employees, at every level of the agency.

VIII. Responding to Detected Offenses

It is the policy of Schenectady ARC to respond to every violation of these policies in a manner that remediates the violation, identifies and addresses the reason the violation occurred, and is otherwise consistent with the goals and objectives of these policies. While specific responses must be determined on a case by case basis, certain principles will always apply. In every case in which it is clear that Schenectady ARC was paid for a service that was not provided, or for which the documentation to support the billing was not proper, Schenectady ARC will promptly void the billing and return (or, as may be

dictated by the circumstances, offset) the payment. In any case in which it is unclear whether Schenectady ARC is entitled to payment, Schenectady ARC will seek clarification and guidance from the appropriate entity as to what billings are proper, and as to what documentation is required to support claims for payment. In those circumstances, Schenectady ARC will establish a reserve sufficient to repay any funds that it might be determined were improperly received by the agency, and while a determination is being sought, Schenectady ARC will only bill for those services as to which it is clear that the documentation is sufficient and the agency is entitled to be paid.

In any case in which there are indications of possible fraud, criminal activity or other wrongdoing, the Corporate Compliance Officer, in consultation with the Executive Director and Legal Counsel, shall determine whether an investigation is warranted. Depending on the circumstances, either an internal investigation may be conducted, or external resources such as auditors, counsel or health care experts may be retained to conduct an investigation. In cases in which the information establishes a substantial probability that criminal activity is involved, either the Corporate Compliance Officer or Legal Counsel will promptly report such information to the appropriate law enforcement agency, and will consult with that agency before investigating or taking any steps that might hinder or interfere with a criminal investigation and/or prosecution.

In every case, it is the policy of SARC to provide prompt follow-up and resolution to all reports of noncompliance in a consistent and thorough manner. The Corporate Compliance Officer will document 1) the event; 2) the decision to investigate (or not) and the reasons; 3) in the event an internal investigation is conducted, the file will contain a description of the investigative process, notes from witnesses interviewed, copies of documentation reviewed, the results and conclusions of the investigation; 4) in the event an external investigation is conducted, who is notified, and what steps are taken; 5) all agencies or regulators notified; 6) whether any disciplinary action was taken against any personnel involved in the event; 7) all other remedial steps taken (e.g., paybacks or voids) in response to the event; and, 8) in every case in which a violation, issue or problem has been found, the steps that will be taken to prevent such events from occurring in the future.

It is the policy of Schenectady ARC to cooperate fully with all investigations conducted by authorized entities. Schenectady ARC will require whatever documentation is necessary or appropriate, pursuant to HIPAA and/or New York's Mental Hygiene Law, to support the disclosure of protected health information about the consumers that it serves (such as *subpoenas* or other proof that an entity is entitled, under state and federal law, to have access to confidential information); once that information is provided, it is the policy of Schenectady ARC to provide timely and thorough cooperation with the investigating entity. Timely means that the cooperation begins at the time Schenectady ARC is aware of the investigation; thorough means that Schenectady ARC will provide the investigating entity all pertinent information known to the organization. To the extent that this may require that Schenectady ARC waive its attorney client privilege, it is the policy of Schenectady ARC that its counsel is authorized to waive the privilege in such a circumstance. As part of the training for the

Board of Directors and management, counsel will advise that investigations by counsel or communications to counsel may not be privileged if disclosure is necessary for the investigating entity to be aware of all the information that is available to the organization.

Schenectady ARC will report to The Arc New York State Office compliance staff, every internal matter that results in a self-disclosure or a referral to a regulatory or oversight body. The report to State Office compliance staff must be contemporaneous with the self-disclosure or referral and include a copy of the self-disclosure letter or other documentation. If the self-disclosure or referral took place over the telephone and no written documentation exists, Schenectady ARC will provide a summary of the issues as described to the regulatory or oversight agency.

Schenectady ARC will provide notification to The Arc New York of any correspondence, or on site visit, from a state or federal regulatory or oversight agency (or contractor of such agency) demonstrating such agency's intent to audit or investigate a program or service offered by Schenectady ARC. In addition a copy of the draft audit report, the Schenectady ARC's response to the audit report, and the final audit report will be provided to State Office.

In addition to any other steps or notifications that he or she might take, Schenectady ARC's Corporate Compliance Officer will notify The Arc New York State Office Compliance Officer if, after a reasonable investigation by the chapter (which should not exceed 60 days), there is a substantial reason to believe that a Chapter director, officer, or executive manager has permitted or engaged in an act or pattern of actions which may constitute fraud, breach of fiduciary duty, or violate any other applicable criminal or civil duty imposed by statute, rule, regulation or common law. Schenectady ARC shall not take any disciplinary action or any other action that might be deemed to be retaliatory for a report made in good faith pursuant to this paragraph.

Conclusion

These policies consolidate, under the heading of a Corporate Compliance program, many of the policies and procedures that have existed for years at Schenectady ARC to assure that it provides the highest quality of service in a manner that fully complies with the law. It is the objective of Schenectady ARC to improve its implementation of all of these policies, and to create a culture of compliance, through the adoption this Corporate Compliance program. The implementation and ongoing monitoring of these policies is a matter of the highest priority for the Board of Directors, Director of Compliance, senior management and all personnel of Schenectady ARC.