

<b>CABRINI OF WESTCHESTER</b> Human Resources & Corporate Compliance Policy & Procedure Manuals	
SECTION 5: Employee Conduct.	Effective Date: 4/01/2019
SUBJECT: Discipline	Revision Date: 3/15/2023

**POLICY:**

At times it may be necessary to impose discipline on an employee due to failure to comply with Cabrini of Westchester’s Ethical Standards, Code of Conduct or Corporate Compliance Plan. The administration of discipline should be proper, consistently applied to all levels of personnel within Cabrini of Westchester, and taken only after careful consideration of the disciplinary measures and procedural guidelines.

The ultimate objective of an effective disciplinary measure should be to rectify misconduct in a just and constructive way, to reduce the likelihood of its recurrence, and to encourage good-faith participation in Cabrini of Westchester’s compliance program. The disciplinary standards and procedures set forth in this policy will be enforced fairly and consistently. The same disciplinary actions will apply to all levels of personnel at Cabrini of Westchester.

Disciplinary actions shall be escalated in response to non-compliance, with intentional or reckless behavior being subject to more significant sanctions. Sanctions may include verbal warnings, written warnings, probation, suspension and/or termination, as appropriate. Major violations of conduct may result in immediate discharge or suspensions and/or termination. For minor violations such as unauthorized absenteeism or lateness, progressive discipline should be followed.

During every counseling session the employee should be asked whether or not they wish to conduct the session in the presence of a witness of their choice or a shop delegate (for a Union shop).

Disciplinary procedures shall conform to collective bargaining agreements when applicable.

This policy will be reviewed and/or revised annually to assure it is consistent with current law, rules and regulations.

This policy will be disseminated to all Cabrini employees, and will be included in the Cabrini Corporate Compliance training plan.

**PURPOSE:**

To support the mission of Cabrini of Westchester and to fairly and consistently enforce the policies and procedures of Cabrini of Westchester, including the Code of Ethical Standards, Code of Conduct and Corporate Compliance Plan. Cabrini of Westchester also adheres to all Federal and New York State Whistleblower protections including application, prohibited actions and available remedies.

**PROCEDURE:**

I. General Procedure:

1. Employee
  - Commits violation.
  - May grieve Supervisor’s actions as per Grievance Procedure.

2. Supervisor/Manager (or other direct report as applicable) (“Supervisor”)
  - Takes appropriate action as per policy and guidelines.
3. Vice President/President/Corporate Compliance Officer/Human Resources
  - Takes appropriate action as per policy and guidelines.
4. The Compliance Officer is notified of all Compliance infractions immediately.

## II. Discipline Procedures- Supervisor:

1. Obtain the pertinent Facts:
  - Give the employee an opportunity to explain fully the employee’s own side of the incident.
  - Check the incident with the employee’s immediate Supervisor.
  - Make every effort to verify the information obtained.
  - Check the employee’s personnel file to learn the employee’s past record.
2. Review and Consider the Facts/Decide on Appropriate Action:
  - Review policy as applied in similar cases.
  - Review what disciplinary action has been taken in the employee’s department/location and other departments/locations.
  - Apply penalties impartially. To ignore several violators and then suddenly enforce the penalty is bad practice and may damage morale of the affected employee and the employee’s co-workers.
  - Do not let personalities or bias affect your decision.
  - Be certain the severity of the disciplinary measure is commensurate with the violation.
  - Use all measures most likely to motivate the employee to perform properly in the future.
3. Administer corrective Measure Properly and Timely:
  - Give clear explanation to the offender of the violation and its effect on clients, fellow employees and the employee’s own self.
  - Be patient and give thorough instruction to the employee on how to correct the problem and prevent similar offenses in the future.
  - Give a clear timetable as to when you will review the employee’s conduct in the future.
4. Complete Necessary Follow-Up:
  - Document all disciplinary matters and actions in writing and forward a copy immediately to Human Resources. Human Resources will keep the copy in the employee’s file.
  - Provide copies of documentation of formal discipline to Employees who are counseled
  - Provide copies of documentation of formal discipline to one Union Delegate involved in any counseling
  - Documentation of formal discipline involving a Union employee suspension or termination should be sent to the Union within 48 hours of the date of the discipline.

III. Progressive Discipline Administration:

1. Before issuing a reprimand to an employee, the Supervisor should be sure that the procedures previously outlined have been carefully followed.
2. The immediate Supervisor has the initial responsibility for taking corrective action in the case of infractions.
3. Reprimands should normally include the following: verbal, written, and final written warning with possible suspension. There are situations, however, where immediate suspension or discharge is warranted.

a. Verbal Reprimand/Warning:

The verbal warning is used on the first occurrence for minor infractions. The date, nature, and conclusion of all verbal warnings must be recorded in writing and a copy forwarded to Human Resources immediately.

b. Written Reprimand/Warning:

The written warning is used for recurrent violations after counseling and verbal reprimand have taken place.

1. The written warning may be used in the case of a first offense if such violation is of a serious nature.
2. The written warning notice will clarify the Supervisor's position and provide substantiation for more stringent action if necessary
3. The warning notice should be signed by the employee. If the employee refuses, indicate so on the notice and have another supervisory employee and Union Delegate sign as witness.
4. In all disciplinary actions involving Union Employees, a Union Delegate must sign the disciplinary action as a Union witness.
5. If Supervisor is unsure of proper wording, contact Human Resources for assistance.

c. Final Warning:

If corrective notice fails to stop repetition of infractions, Supervisor should issue a final warning notice to the employee. Final warning should state that any future infraction of rules or policies will result in termination. This final warning may be accompanied by a suspension.

1. Supervisor must contact Human Resources before issuing a final warning. This is necessary to insure consistent policies are being implemented.
2. Warning notices issued one year or more before a second disciplinary action is taken should be given little weight unless both infractions are of a severe and/or similar type.

3. The written warning should contain the following: the specific policy violated, statement as to previous occurrences, and effect of violation, detailed consequences if improvement is not made by a specified date, employee's commitment to improve, and mention of specific follow up to be taken.

d. Suspension:

As an alternative to discharging an employee for infractions of rules and regulations, an employee may be suspended from duty without pay. Such suspensions, as well as length of suspensions, are based on the nature of the infraction and its frequency.

When a suspension has been approved, the duration of the suspension and expected date of return to work must be indicated on the disciplinary warning notice.

An employee suspended during a period in which a paid holiday falls, may lose the benefit of that holiday.

There may be a situation which warrants a suspension pending an investigation. The outcome of this investigation may result in termination.

e. Termination:

Termination should be the last resort after every other reasonable attempt to correct has been tried and has not produced the desired results.

Exceptions to the above are necessary when the infraction warrants immediate termination. See Employee Rules of Conduct.

1. Terminations are performed by the Supervisor/Manager. Notice of a pending termination must be given to the Vice President/President and Human Resources.
2. The Supervisor/Manager must inform the employee of the date of termination and advise the employee of the grievance procedure.
3. Human Resources will explain what benefits the employee will receive.

IV. Disciplinary Measure for New Employees:

An employee who is still in the initial employment period should be issued a written warning at the time of the first infraction. Should a second infraction occur during this period, immediate termination may result; however, approval must still be obtained from the Vice President/President and notice be given to Human Resources before termination.

V. Discipline for Code Violations or the Cabrini of Westchester Corporate Compliance Policy

a. Disciplinary actions may be taken for:

- Authorization of, or participation in, actions that violate the Code.
- Failure to report a violation of the Code or to cooperate in an investigation.

- Failure by a violator’s supervisor/manager to detect and report a violation of the Code, if such failure reflects inadequate supervision or lack of oversight.
  - Retaliation against an individual for reporting a violation or possible violation of the Code.
- b. Employees who violate the Code of Conduct may be disciplined, based on the facts of the case, up to and including termination of their employment, referral for investigation by the licensing board if applicable and referral for prosecution when appropriate.
  - c. In all instances involving Employee violation of the Corporate Compliance Policy the Corporate Compliance Officer must be immediately notified and included in all steps of the discipline process.
  - d. Employees are encouraged to report in good faith any actual or suspected violations of Cabrini of Westchester’s Ethical Standards, Code of Conduct, or Corporate Compliance Plan to his or her supervisor or director, the Compliance Officer (Privacy Officer), or through Cabrini’s Compliance Reporting hotline: 914-999-5330, which may be done anonymously. Employees who report in good faith shall not suffer intimidation, harassment, retaliation, discrimination, adverse employment consequence, or other retaliation because of such report. If the report is made to the supervisor or department head, that individual must report the information to the Compliance Officer immediately. The level of investigation required will be determined by the Compliance Officer in collaboration with the involved department’s supervisor or department head and the Vice President for Human Resources.

## VI. Violations of Confidentiality

In compliance with the Health Insurance Portability and Accountability Act (“HIPAA”) Security Rule, 45 CFR Part 160 and Subparts A and C of Part 164, the HIPAA Privacy Rule, 45 CFR Part 160 and Subparts A and E of Part 164, and the HIPAA Breach Notification Rule, 45 CFR Sections 164.400-414, all protected health information (PHI) is classified as confidential and may not be accessed, used, disclosed, or acquired except to authorized users for approved purposes and by approved safeguard methodologies. This applies to all forms of media: paper and electronic; and all settings: business and social.

### A. **Disciplinary Actions**

Employees found to have violated PHI access, use, disclosure and/or acquisition provisions are disciplined in accordance with Cabrini’s disciplinary policy. The following privacy and information security incident categories define the significance and impact of the privacy or information security incident to help guide corrective action and remediation plans. Impermissible access includes, but is not limited to: password sharing, and unauthorized viewing and/or sharing of PHI.

Privacy and Information Security Incident Categories:

1. **Category 1:** Incidental Disclosure of PHI
2. **Category 2:** Deliberate unauthorized access to PHI without use, disclosure, or acquisition
3. **Category 3:** Deliberate unauthorized use, disclosure or acquisition of PHI or deliberate tampering with data without malice or personal gain

4. **Category 4:** Deliberate unauthorized use, disclosure or acquisition of PHI for malice or personal gain

B. **Initial reporting**

Employees who observe or are aware of impermissible access, use, disclosure or acquisition of PHI **MUST** immediately report the incident to his or her supervisor or director, the Compliance Officer (Privacy Officer), or through Cabrini’s Compliance Reporting hotline: 914-999-5330, which may be done anonymously. If the report is made to the supervisor or department head, that individual must report the information to the Compliance Officer immediately. The level of investigation required will be determined by the Compliance Officer in collaboration with the involved department’s supervisor or department head and the Vice President for Human Resources.

C. **For incidents other than Category 1**

The Compliance Officer, Security Officer, Vice President for Human Resources, and the involved employee’s department supervisor or department head will conduct the investigation. The investigative effort is commensurate with the level of potential severity and impact of the incident. This team prepares a final, written report, and the Vice President for Human Resources and the involved employee’s department head determine the appropriate disciplinary action.

1. Breach notification reporting (pursuant to the Breach Notification policy) must be done by the Compliance Officer.
2. Documentation regarding the disciplinary action undertaken must be included in the involved employee’s personnel file.

REFERENCES

- 45 CFR Part 160 and Subparts A and C of Part 164
- 45 CFR Part 160 and Subparts A and E of Part 164
- 45 CFR Sections 164.400-414
- 42 USC Section 1396-a(a) (68) [“DRA”]
- 18 NYCRR Sub Part 521-1.4(f) (1) & (2)

Approved by:

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Mary O’Mara  
Corporate Compliance Officer

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Date

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Simone Faulkner-Smith  
Vice President of Human Resources

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Date