



**Policy Name: Individual Rights**

**Effective Date:**

**Revision Date: 2019**

**Board Approved: 5/15/19**

### **Individual Rights for Persons Supported by the Arc of Rensselaer County.**

It is the policy of The Arc of Rensselaer County (The Arc) to recognize that rights of all the people we serve and support are the same rights that all citizens enjoy and exercise regardless of race, religion, national origin, creed, age, gender / gender identification, ethnic background, sexual orientation, developmental disability or other disability or health condition such as one tested for or diagnosed with HIV. The Arc of Rensselaer County (The Arc) is guided by the core principles of the United Nations Convention on the Rights of Persons with Disabilities in the purpose, design and delivery of all Arc support arrangements. There are eight guiding principles that underlie the Convention:

- Respect for inherent dignity and individual autonomy including the freedom to make One's own choices
- Non-discrimination
- Full and effective participation and inclusion in society
- Respect for difference and acceptance of persons with disabilities as part of diversity and humanity of all peoples
- Equality of opportunity in civic life and employment
- Accessibility
- Equality between all genders
- Respect for the evolving capacities of children and adults with disabilities and respect for the right of people with disabilities to preserve their identities.

When an individual supported by The Arc does not fully understand or express his/her rights, it is the obligation of The Arc help the person determine which rights are most important for them. In addition the agency will assist the person to actively pursue opportunities to understand and exercise their rights. It is The Arc's responsibility to ensure that individual rights are not arbitrarily denied.

This policy states some of the specific rights of individuals supported by The Arc but this is not meant to be an all-inclusive list of all rights. The Arc will convey these rights to individuals, their parents and/or guardians and correspondents where appropriate and permissible, prior to or upon admission to Arc services, and when changes are made to this policy. The Arc will attempt to convey this information in a form/forum that facilitates the understanding of this policy. All Arc staff will be trained regarding the rights of individuals served by The Arc. The Arc will also provide a pathway for individuals, staff, parents,

guardians and/or correspondents to register complaints and concerns with The Arc Administration, Board of Directors, representative of the Office of People with Developmental Disabilities (OPWDD) and the Justice Center. It is The Arc's intent to support individuals or his/her parents, guardians, or correspondent's ability to object to the application, adaptation and/or denial of any rights that are stated in this policy.

### ***Statement of Individual Rights***

The rights set forth in this policy reflect the rights afforded to all citizens of the United States and the State of New York, which are (but not limited to): Life, Liberty and the Pursuit of Happiness" as well as freedom of speech and movement. Rights also are intended to establish a support environment that protects and contributes to meaningful and safe living and working situations. In some cases, rights that are self-initiated or involve privacy may need to be adapted to meet the needs of certain persons with the most severe disabilities and/or those persons whose need for protection, safety and health care may justify such adaptation. Limitations of rights must be on an individual basis, for a specific amount of time for clinical purposes only. None of these rights will be violated for disciplinary reasons, retribution or for the convenience of staff or contractor.

### ***Guidelines to Implement Individual Rights:***

Overall rights relate to:

- The right to accept or deny services provided by OPWDD and the Arc.
- The right to choose and make decisions about life, work, spirituality and intimate relationships
- right to live and work in inclusive community settings
- the right to have a family and to marry

Specific assurances related to the provision of services, individual choice and rights include:

### **The Arc upholds the following rights in providing Supports and Services**

#### ***This includes:***

- freedom from physical or psychological abuse
- freedom from corporal punishment
- freedom from unnecessary use of mechanical restraining devices
- freedom from unnecessary or excessive medication
- protection from commercial or other exploitation
- confidentiality with regard to all information contained in their records and with regard to HIV related information
- A written individualized supported plan that addresses the unique needs, capabilities and interests of each person Arc serves that fosters such outcomes as: increased choices, participation in the community, reciprocal relationships,

increased work and life competence, valued community roles (in work, volunteerism, spirituality and recreation) and safe and comfortable housing.

Such a right includes:

- the opportunity to participate in the development and modification of their plan of services
- The opportunity to object to any provision within the individualized plan of services and the opportunity to appeal any decision.
- Services and supports, including assistance and guidance, from staff who are trained to provide services/supports adequately, skillfully, and safely with full respect for the individual's dignity.
- Appropriate health care and the opportunity, to the extent possible, to have input either personally or through parent(s) or guardian(s) where appropriate and permissible, or correspondent to participate in the choice of physician and dentist or the opportunity to get second opinion.
- to be informed on or prior to admission, regarding the supplies and services that The Arc will provide or for which additional charges will be made and timely notification of any charges in support or services
- the opportunity, either personally or through parent, guardian or correspondent to express without fear of reprisal, their grievances, concerns and suggestions to the Executive Director of The Arc, to the Commissioner of OPWDD and the NYS Justice Center.

### **Guidelines Related to Personal Choices Concerning Sexuality**

*This includes:*

Access to clinically sound instructions on the topic of sexuality and family planning services and information about the existence of these services, including medication or devices to regulate conception, when clinically indicated. This right includes:

- Freedom to express sexuality as limited by one's consensual ability to do so provided such expressions do not infringe on the rights of others.
- The right to make decisions regarding conception and pregnancy pursuant to the mandates of applicable State and Federal Law.

The right of The Arc to reasonably limit the expression of sexuality including the time and location thereof in accordance with a plan for effective site management.

### **Guidelines Related to Personal Choices Concerning Spirituality**

- The right to observe and participate in your religion of choice including the right not to participate.

### **Guidelines Related to Citizenship**

#### *This includes:*

- The right to register and vote and the opportunity to participate in activities that educates and informs in civic responsibilities.
- The right to freedom from discrimination based on the protected classes.
- The right to use one's own personal money and property and to receive regular notice of financial status and the provision of assistance in the use of his/her resources as appropriate.
- To have one's cultural identity respected.

### **Guidelines Related to Safe, Healthy and Supportive Living Arrangements**

#### *This includes:*

- to consider a residence of The Arc, as one's own home
- A balanced and nutritious diet, served at appropriate times and in consideration of the individual's preferences. Diet and food will not be altered or totally denied for behavior management purposes.
- Individually owned clothing, which fits properly, is maintained properly and is appropriate for age, season and activity. The individual is to be involved in the selection of his/her clothing.
- adequate, individually owned grooming and personal hygiene supplies
- A reasonable degree of privacy in bedrooms and bathrooms.
- A reasonable amount of safe, individual, accessible storage space for clothing and other personal belongings used on a daily basis.
- The opportunity to request an alternative work, day programming or living situation.
- The opportunity to receive visitors at reasonable times; to have privacy when visited, provided such visits avoid infringement on the rights of others; and to communicate freely with anyone within or outside the facility.

### **Guidelines Related to Health Care Proxy and DNR**

#### *This includes:*

- Not denying an individual the opportunity to make or have made on his/her behalf, an informed decision regarding health care proxy and/or DNR.
- Help ensure that each adult person who formulates a health care proxy and/or DNR while residing at an Arc residence does so voluntarily and without duress.

- If provided with a person's duly executed health care proxy, ensures that the health care proxy or copy becomes part of the medical portion of that person's medical record.
- Informs MHLS of any situations that involve the development or execution of a health care proxy/DNR that does not involve the voluntary approval or understanding of the individual or designed guardians.

### **Guidelines for Managing Complaints (Service and Rights related)**

At any point in time should a person receiving support from The Arc wish to file a complaint in regard to services, treatment by staff, or other service related issue - that person may report such a complaint to any staff that they feel most comfortable. Situations that involve rights violations that are coded as abuse or neglect, reporting to the Justice Center is required. The Arc Objection to Service Policy covers changes in services. All other complaints are to be handled using the procedure articulated in the following paragraphs. While it is in this interest of the person and the agency to respond quickly and thoroughly to this complaint, the following steps shall be followed:

1. If possible the staff member receiving the complaint shall evaluate the issue and attempt to address the matter if it is within their scope of responsibility. If it is determined that the complaint is related to alleged mistreatment, abuse or neglect, and rights violations that are coded abusive in nature the staff person is required to report it to the Justice Center and complete an incident report. If it is a complaint regarding changes in services or issues with supports the staff member will inform their immediate supervisor of the complaint and follow-up action in a prompt manner-and no more after 24 hours following the initial complaint.
2. If the staff member is unable to address the complaint they are to inform their immediate supervisor for assistance immediately-and no later than 24 hours following the initial complaint. Further, they are to inform the person that has filed the complaint of the status of the problem-solving process.
3. The supervisor is expected to notify the Program Director of the complaint and planned action within 24 hours of being informed.
4. If unable to resolve complaint the supervisor and Director will work jointly to resolve the matter and include all necessary agency resources-within reason. At this stage the agency CEO will be informed.
5. As a final step in the resolution process the CEO will meet with all relevant parties to resolve difficulties that have surfaced within the problem-solving process. It will be at the discretion of the CEO to determine final agency strategies in response to the complaint.
6. All agency actions in response to the initial complaint will be documented in agency records.
7. All formal complaint processes will be reviewed annually by the agency's administrative team to identify key cause and effect factors, trends, and the quality of responses/ outcomes that led to effective outcomes.

## **Procedures-Policy Violation**

Prior to, or upon achieving any supports and/or services from The Arc, an individual and if appropriate, their family, guardian or correspondent will be informed fully of his/her individual rights by a designated The Arc staff person at Admissions. These rights will be explained in such a manner that matches the cognitive abilities and/or primary language of the individual to ensure comprehension (“You and Your Rights” document).

1. The staff person will inform the individual, parents, guardians or correspondents of the complaint process including names and numbers to contact.
2. The staff person will facilitate the signing of the individual rights document by the individual, his/her family, guardian or correspondent and place a copy in the individual’s file.
3. Staff will monitor The Arc’s adherence to the individual’s rights policy.
4. All Arc staff is required to report any violations of individual rights to the Program Directors, Associate Executive Director and/or the Executive Director.
5. The Program Director and or the Director of QA are required to follow through with an immediate investigation of all alleged violations of individual rights.
6. The Arc Administrative Team is responsible for the modification of this policy, therefore will initiate a communication to all staff, individuals and their families of any changes to this policy.

I have been informed of and/or read the above listed policy on individual rights. I have been made aware of the availability of The Arc Executive Director, the Commissioner of OPWDD, Director of the local DDRO and the Justice Center in the event that I have Complaints, objections or concerns relative to the exercise of these rights.

I acknowledge that I have been given a copy of the names, addresses and the phone numbers listed below in the event that I feel my rights have been violated.

**Please add signature on Rights and Responsibilities Signature page.**

Executive Director-The Arc of Rensselaer County  
79 102<sup>nd</sup> Street  
Troy, NY 12180  
518-274-3110

Commissioner (Acting)  
Office for Persons with Developmental Disabilities  
44 Holland Avenue  
Albany, NY 12208  
1-866-946-9733  
DDRO Director  
Capital District Developmental Services

New York State Justice Center  
1-855-373-2122